

(Aug. 24, 1935, ch. 641, § 56, 49 Stat. 781.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 852, 853, 855 of this title.

### § 852. Marketing agreements with handlers; exemption from antitrust laws

In order to effectuate the policy declared in section 851 of this title the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with manufacturers and others engaged in the handling of anti-hog-cholera serum and hog-cholera virus only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such serum and virus. Such persons are in section 854 of this title referred to as "handlers." The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful.

(Aug. 24, 1935, ch. 641, § 57, 49 Stat. 781.)

#### REFERENCES IN TEXT

Antitrust laws of the United States, referred to in text, are classified generally to chapter 1 (§ 1 et seq.) of Title 15, Commerce and Trade.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 853, 854, 855 of this title.

### § 853. Terms and conditions of marketing agreements

Marketing agreements entered into pursuant to section 852 of this title shall contain such one or more of the following terms and conditions and no others as the Secretary finds, upon the basis of the hearing provided for in section 852 of this title, will tend to effectuate the policy declared in section 851 of this title:

(a) One or more of the terms and conditions specified in subsection (7) of section 608c of this title.

(b) Terms and conditions requiring each manufacturer to have in inventory in his own possession on April 1 of each year a reserve supply of completed serum equivalent to not less than 40 per centum of his previous year's sales of all serum, except that any marketing agreement may provide that upon written application by a manufacturer filed before September 1 of the preceding year, the Secretary may fix another date between January 1 and May 1 on which such manufacturer shall have such inventory if the Secretary finds that such actions will tend to effectuate the purposes of section 851 of this title. The Secretary may impose such terms and conditions upon granting any such application as he finds necessary to effectuate the purposes of section 851 of this title. Serum used in computing the required reserve supply of any manufacturer shall not again be used in computing the required reserve supply of any other manufacturer.

(Aug. 24, 1935, ch. 641, § 58, 49 Stat. 781; July 31, 1958, Pub. L. 85-574, 72 Stat. 454.)

#### REFERENCES IN TEXT

Section 851 of this title, referred to in clause (b), was in the original "this Act", meaning act Aug. 24, 1935. For complete classification of act Aug. 24, 1935, to the Code, see Tables.

#### AMENDMENTS

1958—Cl. (b). Pub. L. 85-574 substituted "in inventory in his own possession on April 1" for "available on May 1", inserted exception provision for changing minimum inventory date under certain terms and conditions, and inserted prohibition against reusing serum in computation of required reserve supply for different manufacturers.

### § 854. Order regulating handlers; issuance and terms

Whenever all the handlers of not less than 75 per centum of the volume of anti-hog-cholera serum and hog-cholera virus which is handled in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce, have signed a marketing agreement entered into with the Secretary of Agriculture pursuant to section 852 of this title, the Secretary of Agriculture shall issue an order which shall regulate only such handling in the same manner as, and contain only such terms and conditions as are contained in such marketing agreement, and shall from time to time amend such order in conformance with amendments to such marketing agreement. Such order shall terminate upon termination of such marketing agreement as provided in such marketing agreement.

(Aug. 24, 1935, ch. 641, § 59, 49 Stat. 781.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 852, 855 of this title.

### § 855. Applicability of other laws

Subject to the policy declared in section 851 of this title, the provisions of subsections (6) to (9) of section 608a and of subsections (14) and (15) of section 608c of this title, are made applicable in connection with orders issued pursuant to section 854 of this title, and the provisions of section 608d of this title are made applicable in connection with marketing agreements entered into pursuant to section 852 of this title and orders issued pursuant to section 854 of this title. The provisions of subsections (a), (b)(2), (c), (f), (h), and (i) of section 610 of this title, are made applicable in connection with the administration of this chapter.

(Aug. 24, 1935, ch. 641, § 60, 49 Stat. 782.)

#### FEDERAL RULES OF CIVIL PROCEDURE

Process, see rule 4, Title 28, Appendix, Judiciary and Judicial Procedure.

## CHAPTER 31—RURAL ELECTRIFICATION AND TELEPHONE SERVICE

### SUBCHAPTER I—RURAL ELECTRIFICATION

Sec.	
901.	Short title.
902.	Loans by Secretary of Agriculture; investigations and reports.
903.	Funds of Secretary of Agriculture.
	(a) Loans by Secretary of the Treasury.

Sec.		Sec.	
	(b) Authorization of appropriations.	934.	Authorized financial transactions; interim notes; purchase of obligations for resale; sale of notes and certificates; liens.
	(c) Allotment of funds for loans in States.	935.	Insured loans; interest rates and lending levels.
	(d) Loans of unallotted funds.		(a) In general.
	(e) Unexpended funds; limitation on use.		(b) Insured loans.
904.	Loans by Secretary of Agriculture for electrical plants and transmission lines; preferences; consent of State authorities.		(c) Insured electric loans.
905.	Loans for electrical and plumbing equipment; persons eligible for loans.		(d) Insured telephone loans.
906.	Authorization of appropriations; testimony by Secretary of Agriculture before Congressional committees in justification of budget requests.	936.	Guaranteed loans; accommodation and subordination of liens; interest rates; assignability of guaranteed loans and related guarantees.
906a.	Use of funds outside the United States or its territories prohibited.	936a.	Prepayment of loans.
907.	Acquisition of property pledged for loans; disposition; sale of pledged property by borrower.		(a) Conditions for prepayment.
908.	Transfer of functions of Administration created by Executive Order 7037.		(b) Charges on prepayment prohibited.
909.	Administration on nonpolitical basis; dismissal of officers or employees for violating provision.		(c) Disqualification for prepayment on finding of adverse affect on Federal Financing Bank.
910.	Annual report.		(d) Amount of permissible prepayments; establishment of eligibility criteria.
911.	Acceptance of services of Federal or State officers; application of civil service laws; expenditures for supplies and equipment.	936b.	Sale or prepayment of direct or insured loans.
911a.	Repealed.		(a) Discounted prepayment by borrowers of electric loans.
912.	Extension of time for repayment of loans.		(b) Mergers of electric borrowers.
912a.	Rescheduling and refinancing of loans.	936c.	Refinancing and prepayment of FFB loans.
913.	Definitions.		(a) In general.
914.	Separability.		(b) Penalty.
915.	Purchase of financial and credit reports.		(c) Loan terms and conditions after refinancing.
916.	Criteria for loans.	936d.	Eligibility of distribution borrowers for loans, loan guarantees, and lien accommodations.
917.	Repealed.		(d) Maximum rate option.
918.	General prohibitions.	936e.	Administrative prohibitions applicable to certain electric borrowers.
	(a) No consideration of borrower's level of general funds.		(a) In general.
	(b) Loan origination fees.		(b) Subordination or sharing of liens.
	(c) Consultants.		(c) Issuance of regulations.
SUBCHAPTER II—RURAL TELEPHONE SERVICE			(d) Authority of Secretary.
921.	Congressional declaration of policy.	937.	Loans from other credit sources.
921a.	Policy of financing of rural telephone program.	938.	Full faith and credit of the United States.
921b.	Policy of expansion of markets for debentures.	939.	Loan terms and conditions.
922.	Loans for rural telephone service.		(a) In general.
923.	State regulation of telephone service.	940.	Refinancing of rural development loans.
924.	Definition of telephone service and rural area.	940a.	Privatization program.
925.	Loan feasibility.	940b.	Use of funds.
926.	Certain rural development investments by qualified telephone borrowers not treated as dividends or distributions.	940c.	Cushion of credit payments program.
	(a) In general.		(a) Establishment.
	(b) "Qualified telephone borrower" defined.		(b) Uses of cushion of credit payments.
927.	General duties and prohibitions.	940d.	Limitations on authorization of appropriations.
	(a) Duties.		(a) "Adjustment percentage" defined.
	(b) Prohibitions.		(b) Fiscal years 1994 through 1998.
928.	Prompt processing of telephone loans.		(c) Funding levels.
SUBCHAPTER III—RURAL ELECTRIC AND TELEPHONE DIRECT LOAN PROGRAMS			(d) Availability of funds for insured loans.
930.	Congressional declaration of policy.	SUBCHAPTER IV—RURAL TELEPHONE BANK	
931.	Rural Electrification and Telephone Revolving Fund.	941.	Telephone Bank.
931a.	Level of loan programs under Rural Electrification and Telephone Revolving Fund.		(a) Establishment.
932.	Liabilities and uses of Rural Electrification and Telephone Revolving Fund.		(b) General purposes.
	(a) Liabilities and obligations of fund.	942.	General powers.
	(b) Uses of fund assets.	943.	Special provisions governing telephone bank as a Federal Agency until conversion of ownership, control, and operation.
	(c) Separate electric and telephone accounts.		(a) Supervision and direction of Secretary of Agriculture; free postage and priority of debts restrictions.
933.	Moneys in the Rural Electrification and Telephone Revolving Fund.		(b) Use of facilities and services of employees of Secretary of Agriculture.
			(c) Wholly owned Government corporation.

- Sec. (d) Appointment and compensation of personnel.
- (e) Tort claims and litigation.
944. Governor of telephone bank; functions, powers, and duties.
- 944a. Publication of rural telephone bank policies and regulations.
945. Board of directors.
- (a) In general.
- (b) Membership.
- (c) Elections.
- (d) Compensation.
- (e) Succession.
- (f) Chairperson.
- (g) Bylaws.
- (h) Meetings.
- (i) Annual report.
- (j) Open meetings.
946. Capitalization.
- (a) Federal and borrower subscriptions; Federal limitation; report to President, transmittal to Congress; net collection proceeds.
- (b) Stock classification; voting stock; one vote rule.
- (c) Class A stock; issuance to Secretary of Agriculture and redemption; cumulative return.
- (d) Class B stock; borrowers as holders; dividend prohibition; patronage refunds.
- (e) Class C stock; borrowers as purchasers; dividends.
- (f) Special fund equivalents.
- (g) Patronage refunds from remaining earnings after provision for operating expenses, reserves for losses, payments in lieu of taxes, and returns on class A and C stock.
- (h) Reserve for losses due to interest rate fluctuations.
- (i) Investment of RTB Equity Fund.
947. Borrowing power; telephone debentures; issuance; interest rates; terms and conditions; ratio to paid-in capital and retained earnings; investments in debentures; debentures as security; purchase and sale of debentures by the Secretary of the Treasury; treatment as public debt transactions of the United States; exclusion of transactions from budget totals.
948. Lending power.
- (a) Loans for prescribed purposes; requisite conditions.
- (b) Terms and conditions of loans; restrictions on loans.
- (c) Payment schedule; adjustment; loan period.
- (d) Borrowers to determine amortization period for rural telephone bank loans.
- (e) Interest on loans and advances.
949. Telephone bank receipts; availability for obligations and expenditures.
950. Conversion of ownership, control, and operation of telephone bank.
- (a) Transfer of powers and authority from Secretary of Agriculture to Telephone Bank Board; cessation of Presidential appointees as Board members and reduction in number of Board members; status of telephone bank.
- (b) Restrictions of section 948(a)(2) of this title inapplicable to loans upon redemption and retirement of class A stock.
- (c) Congressional review.
- 950a. Liquidation or dissolution of telephone bank.

- Sec. Borrower net worth.
- 950b.

#### SUBCHAPTER V—RURAL ECONOMIC DEVELOPMENT

- 950aa. Additional powers and duties.
- 950aa-1. Rural Business Incubator Fund.
- (a) Establishment and use.
- (b) Application for assistance.
- (c) Funding of local incubators.
- (d) Repayments to Incubator Fund.
- (e) Full use.

#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 950aaa-5, 1926, 1926-1, 2007a, 6941, 6942 of this title; title 16 sections 590z-7, 824k; title 43 sections 485h, 1464.

#### SUBCHAPTER I—RURAL ELECTRIFICATION

##### SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 931, 939 of this title.

#### § 901. Short title

This chapter may be cited as the “Rural Electrification Act of 1936”.

(May 20, 1936, ch. 432, title I, §1, 49 Stat. 1363; 1939 Reorg. Plan No. II, §5, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434; Oct. 28, 1949, ch. 776, §2, 63 Stat. 948; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(1), 108 Stat. 3220.)

#### AMENDMENTS

1994—Pub. L. 103-354 added section catchline and text and struck out former text which read as follows: “There is hereby created and established an agency of the United States to be known as the ‘Rural Electrification Administration’, all of the powers of which shall be exercised by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of ten years, and who shall receive a salary of \$10,000 per year. This chapter may be cited as the ‘Rural Electrification Act of 1936’.”

1949—Act Oct. 28, 1949, inserted “title I,” in credit of act May 20, 1936.

#### SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103-129, §1, Nov. 1, 1993, 107 Stat. 1356, provided that: “This Act [enacting sections 936d, 936e, and 2008e of this title, amending sections 902, 904, 913, 918, 924, 935, 936c, 937, 939, 940d, 946, 948, 1926, and 2006f of this title, and enacting provisions set out as a note below] may be cited as the ‘Rural Electrification Loan Restructuring Act of 1993’.”

#### SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-428, §1, Oct. 21, 1992, 106 Stat. 2183, provided that: “This Act [amending section 936b of this title] may be cited as the ‘Rural Electrification Administration Improvement Act of 1992’.”

#### SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-624, title XXIII, §2351(a), Nov. 28, 1990, 104 Stat. 4038, provided that: “This subtitle [subtitle F (§§2351-2368) of title XXIII of Pub. L. 101-624, enacting sections 918 and 925 to 928 of this title, amending sections 924, 932, 935, 936, 939, 945, 946, 948, and 950 of this title, and enacting provisions set out as notes under this section and section 946 of this title] may be cited as the ‘Rural Telecommunications Improvements Act of 1990’.”

#### SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-570, §1, Oct. 20, 1976, 90 Stat. 2701, provided: “That this Act [amending sections 931 and 935 of this

title and enacting provisions set out as a note under section 935 of this title] may be cited as the ‘Rural Electrification Administration Technical Amendments Act of 1976’.”

#### REGULATIONS

Pub. L. 103-129, § 6, Nov. 1, 1993, 107 Stat. 1367, provided that: “Except as provided in section 2(b) of the Rural Electrification Act of 1936 [7 U.S.C. 902(b)] and section 370 of the Consolidated Farm and Rural Development Act [7 U.S.C. 2008e], as added by sections 2(c)(1)(C) and 5 of this Act, not later than 45 days after the date of enactment of this Act [Nov. 1, 1993], interim final regulations shall be issued by—

“(1) the Administrator of the Rural Electrification Administration to carry out the amendments made by this Act [see Short Title of 1993 Amendment note above] to programs administered by the Administrator;

“(2) the Administrator of the Rural Development Administration to carry out the amendments made by this Act to programs administered by the Administrator; and

“(3) the Secretary of Agriculture to carry out the amendments made by this Act to programs administered by the Farmers Home Administration.”

#### TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Rural Electrification Administration and its functions and activities transferred to Department of Agriculture, to be administered therein by Administrator under general direction and supervision of Secretary of Agriculture, by 1939 Reorg. Plan No. II, set out in the Appendix to Title 5, Government Organization and Employees. See also sections 401 to 404 of that plan for provisions relating to transfer of functions, records, property, personnel, and funds.

#### FINDINGS; STATEMENT OF POLICY

Pub. L. 101-624, title XXIII, § 2352, Nov. 28, 1990, 104 Stat. 4038, provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) making modern telecommunications technology and services available in rural areas in the United States promotes economic development and improves the quality of life in rural areas; and

“(2) the efficient operation of the Rural Telephone Bank and the Rural Electrification Administration telephone loan programs is essential to the continued development of the telecommunications infrastructure in rural areas in the United States.

“(b) STATEMENT OF POLICY.—It is the policy of the Congress that the Rural Telephone Bank and the Rural Electrification Administration make loans that facilitate the development and enhancement of the rural telecommunications infrastructure in order to make modern telecommunications technology and services available at reasonable rates to the greatest practicable number of people in rural areas in the United States.”

### § 902. Loans by Secretary of Agriculture; investigations and reports

(a) The Secretary of Agriculture is authorized and empowered to make loans in the several States and Territories of the United States for rural electrification and the furnishing of electric energy to persons in rural areas who are not receiving central station service and for the purpose of furnishing and improving electric and telephone service in rural areas, as provided in this chapter, and for the purpose of assisting

electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems; to make, or cause to be made, studies, investigations, and reports concerning the condition and progress of the electrification of and the furnishing of adequate telephone service in rural areas in the several States and Territories; and to publish and disseminate information with respect thereto.

(b) By January 1, 1994, the Secretary shall issue interim regulations to implement the authority contained in subsection (a) of this section to make loans for the purpose of assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems. If the regulations are not issued by January 1, 1994, the Secretary shall consider any demand side management, energy conservation, or renewable energy program, system, or activity that is approved by a State agency to be eligible for the loans.

(May 20, 1936, ch. 432, title I, § 2, 49 Stat. 1363; Oct. 28, 1949, ch. 776, §§ 2, 3, 63 Stat. 948; Nov. 1, 1993, Pub. L. 103-129, § 2(c)(1), 107 Stat. 1363; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(2), (13), 108 Stat. 3220, 3221.)

#### AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary of Agriculture” for “Administrator” in subsec. (a) and “Secretary” for “Administrator” in two places in subsec. (b).

1993—Pub. L. 103-129 designated existing provisions as subsec. (a), substituted “electric and telephone service in rural areas, as provided in this chapter, and for the purpose of assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems;” for “telephone service in rural areas, as herein after provided;”, and added subsec. (b).

1949—Act Oct. 28, 1949, authorized loans to furnish and improve rural telephone service; and inserted “title I,” in credit of act May 20, 1936.

#### TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

### § 903. Funds of Secretary of Agriculture

#### (a) Loans by Secretary of the Treasury

The Secretary of the Treasury is authorized and directed to make loans to the Secretary in such amounts in the aggregate for each fiscal year commencing with the fiscal year ending June 30, 1948, as the Congress may from time to time determine to be necessary, either without interest or at such rate of interest per annum, not in excess of the rate provided for in sections 904 and 905 of this title, as the Secretary of the Treasury may determine, upon the security of the obligations of borrowers from the Secretary. Interest rates on the unpaid balance of any loans made by the Reconstruction Finance Corporation to the Secretary prior to July 1, 1947, shall be adjusted to the interest rate, if any, established for loans made after June 30, 1947, in accordance with the foregoing provision: *Pro-*

*vided*, That such obligations incurred for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines, or systems and for the purpose of financing the improvement, expansion, construction, acquisition, and operation of facilities to render telephone service shall be fully amortized over a period not to exceed thirty-five years, and that the maturity of such obligations incurred for the purpose of financing the wiring of premises and the acquisition and installation of electrical and plumbing appliances and equipment shall not exceed two-thirds of the assured life thereof and not more than five years. The Secretary is authorized to make all such endorsements, to execute all such instruments, and to do all such acts and things as shall be necessary to effect the valid transfer and assignment to the Secretary of the Treasury of all such obligations, and to execute such trust instruments as shall be agreed upon by the Secretary and the Secretary of the Treasury providing for the holding in trust by the Secretary of all such obligations for the Secretary of the Treasury as security for loans to the Secretary heretofore made by the Reconstruction Finance Corporation or made or to be made by the Secretary of the Treasury. All rights, interest, obligations, and duties of the Reconstruction Finance Corporation arising out of loans made or authorized to be made to the Secretary are, as of the close of June 30, 1947, vested in the Secretary of the Treasury; the Reconstruction Finance Corporation is authorized and directed to transfer, as of the close of June 30, 1947, to the Secretary of the Treasury and the Secretary of the Treasury is authorized and directed to receive all loans outstanding on that date, plus accrued unpaid interest, theretofore made to the Secretary under the provisions of this chapter, and all notes and other evidences thereof and all obligations constituting the security therefor. The Secretary of the Treasury shall cancel notes of the Reconstruction Finance Corporation, and sums due and unpaid upon or in connection with such notes at the time of such cancellation, in an amount equal to the unpaid principal of the loans so transferred, plus accrued unpaid interest through June 30, 1947. Subsequent to June 30, 1947, the Reconstruction Finance Corporation shall make no further loans or advances to the Secretary; and the Secretary of the Treasury is authorized and directed, in lieu of the Reconstruction Finance Corporation, to lend or advance to the Secretary, in accordance with the provisions of this subsection, any unobligated or unadvanced balances of the sums which the Reconstruction Finance Corporation has theretofore been authorized and directed to lend to the Secretary. For the purpose of making loans or advances pursuant to this section, the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include such loans or advances to the Secretary. Repayments to the Secretary of the Treasury on such loans or advances shall be treated as a public-debt transaction of the United States.

#### (b) Authorization of appropriations

There are authorized to be appropriated such sums as the Congress may from time to time determine to be necessary for the purposes of this chapter as hereinafter provided.

#### (c) Allotment of funds for loans in States

Twenty-five per centum of the annual sums herein made available or appropriated for loans for rural electrification pursuant to sections 904 and 905 of this title shall be allotted yearly by the Secretary for loans in the several States in the proportion which the number of their farms not then receiving central station electric service bears to the total number of farms of the United States not then receiving such service: *Provided*, That if any part of such sums are not loaned or obligated during the first six months of the fiscal year for which they are made available, such part shall thereafter be available for loans by the Secretary without allotment: *Provided, however*, That not more than 25 per centum of said sums may be employed in any one State or in all of the Territories. The Secretary shall within ninety days after the beginning of each fiscal year determine for each State and for the United States the number of farms not then receiving such service.

#### (d) Loans of unallotted funds

The remaining 75 per centum of such annual sums shall be available for rural electrification loans in the several States and in the Territories, without allotment as hereinabove provided in such amounts for each State and Territory as, in the opinion of the Secretary, may be effectively employed for the purposes of this chapter, and to carry out the provisions of section 907 of this title: *Provided, however*, That not more than 25 per centum of said unallotted annual sums may be employed in any one State, or in all of the Territories.

#### (e) Unexpended funds; limitation on use

If any part of the annual sums made available for the purposes of this chapter are not loaned or obligated during the fiscal year for which they are made available, such unexpended or unobligated sums shall be available for loans by the Secretary in the following year or years without allotment: *Provided, however*, That not more than 25 per centum of said sums for rural electrification loans may be employed in any one State or in all of the Territories.

(May 20, 1936, ch. 432, title I, § 3, 49 Stat. 1364; June 21, 1938, ch. 554, title IV, § 401, 52 Stat. 818; Sept. 21, 1944, ch. 412, title V, §§ 501, 503, 504, 58 Stat. 739, 740; July 30, 1947, ch. 356, title I, § 1, 61 Stat. 546; Oct. 28, 1949, ch. 776, § 2, 4(a)-(d), 63 Stat. 948; June 15, 1955, ch. 139, § 1, 69 Stat. 131; May 7, 1971, Pub. L. 92-12, § 3(a), 85 Stat. 37; May 11, 1973, Pub. L. 93-32, § 3, 87 Stat. 70; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(3), (13), 108 Stat. 3220, 3221.)

#### CODIFICATION

In subsec. (a), “chapter 31 of title 31” and “that chapter” substituted for “the Second Liberty Bond Act, as amended” and “that Act”, respectively, on authority of Pub. L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

## AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator, upon the request and approval of the Secretary of Agriculture,” and for “Administrator appointed pursuant to the provisions of this chapter or from the Administrator of the Rural Electrification Administration established by Executive Order Numbered 7037” in first sentence of subsec. (a) and substituted “Secretary” for “Administrator” wherever appearing.

1973—Subsec. (f). Pub. L. 93-32 struck out subsec. (f) which made provision for the disposition of payments on loans that had been made by the Administrator.

1971—Subsec. (f). Pub. L. 92-12 inserted introductory text “Except as otherwise provided in sections 931 and 946(a) of this title”.

1955—Subsec. (c). Act June 15, 1955, reduced the funds which may be allotted for loans from fifty to twenty-five per centum of the available or appropriated sum, and inserted two provisos.

Subsec. (d). Act June 15, 1955, substituted “75 per centum” for “50 per centum”, and “25 per centum” for “10 per centum”.

Subsec. (e). Act June 15, 1955, substituted “25 per centum” for “10 per centum”.

1949—Act Oct. 28, 1949, § 2, inserted “title I,” in credit of act May 20, 1936.

Subsec. (a). Act Oct. 28, 1949, § 4(a), authorized loans for financing facilities to render telephone service.

Subsec. (c). Act Oct. 28, 1949, § 4(b), substituted “for loans for rural electrification pursuant to sections 904 and 905 of this title” for “for the purposes of this chapter”.

Subsec. (d). Act Oct. 28, 1949, § 4(c), inserted “rural electrification” after “available for”.

Subsec. (e). Act Oct. 28, 1949, § 4(d), inserted “for rural electrification loans” after “sums” in proviso.

1947—Subsec. (a). Act July 30, 1947, amended subsec. (a) generally, and among other things transferred from the Reconstruction Finance Corporation to the Secretary of the Treasury the power to make loans.

Subsec. (f). Act July 30, 1947, substituted Secretary of the Treasury for Reconstruction Finance Corporation.

1944—Subsec. (a). Act Sept. 21, 1944, struck out “The Reconstruction Finance Corporation is hereby authorized and directed to make loans to the Administrator, upon his request approved by the President, not exceeding in aggregate amounts \$50,000,000 for the fiscal year ending June 30, 1937, and \$100,000,000 for the fiscal year ending June 30, 1939, with interest at 3 per centum per annum” and inserted in lieu thereof “The Reconstruction Finance Corporation is hereby authorized and directed to make loans to the Administrator, upon the request and approval of the Secretary of Agriculture, in such amounts in the aggregate for each fiscal year commencing with the fiscal year ending June 30, 1945, as the Congress may from time to time determine to be necessary, with interest at a rate of 1¾ per centum per annum”, changed colon to period following “numbered 70037”, inserted “Interest rates on the unpaid balance of any loans made by the Reconstruction Finance Corporation to the Administrator prior to the effective date of this amendment shall be adjusted to a rate of 1¾ per centum per annum”, inserted sentence “The amount of the notes, bonds, debentures, and other such obligations which the Reconstruction Finance Corporation is authorized and empowered to issue and to have outstanding at any one time under existing law is hereby increased by an amount sufficient to carry out the provisions hereof”, and substituted “thirty-five years” for “twenty-five years” in second proviso.

Subsec. (b). Act Sept. 21, 1944, struck out subsec. (b) limiting amount of appropriation and renewal of appropriations to eight years after June 30, 1938, and inserted a new subsec. (b).

Subsec. (e). Act Sept. 21, 1944, struck out “and provided further, that no loans shall be made by the Reconstruction Finance Corporation to the Administrator after June 30, 1939”, and changed colon to period after “territories”.

1938—Subsecs. (a), (e). Act June 21, 1938, inserted “and \$100,000,000 for the fiscal year ending June 30, 1939” after “June 30, 1937,” in subsec. (a), and substituted “June 30, 1939” for “June 30, 1937” in subsec. (e).

## EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-32 effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as an Effective Date note under section 930 of this title.

## EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-12 effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as an Effective Date note under section 921a of this title.

## TRANSFER OF FUNCTIONS

Functions, property, and personnel of Rural Electrification Administration established by Executive Order Numbered 7037 of May 11, 1935, transferred by Executive Order 7458 of Sept. 26, 1936, to Rural Electrification Administration established by Rural Electrification Act of 1936 (49 Stat. 1363), which was transferred to Department of Agriculture by 1939 Reorg. Plan No. II, § 5, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

## ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, abolished Reconstruction Finance Corporation.

## RESTRICTIONS ON BORROWER

Section 401 of act June 21, 1938, as amended by Pub. L. 103-182, title III, § 381(d), Dec. 8, 1993, 107 Stat. 2129; Pub. L. 103-354, title II, § 235(b)(3), Oct. 13, 1994, 108 Stat. 3221; Pub. L. 103-465, title III, § 342(g), Dec. 8, 1994, 108 Stat. 4954, in addition to amending subsecs. (a) and (e), provided in part as follows: “In making loans pursuant to this title [title IV of such act] and pursuant to the Rural Electrification Act of 1936 [this chapter], the Secretary of Agriculture shall require that, to the extent practicable and the cost of which is not unreasonable, the borrower agree to use in connection with the expenditure of such funds only such unmanufactured articles, materials, and supplies, as have been mined or produced in the United States or in any eligible country, and only such manufactured articles, materials, and supplies as have been manufactured in the United States or in any eligible country substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States or in any eligible country. For purposes of this section, an ‘eligible country’ is any country that applies with respect to the United States an agreement ensuring reciprocal access for United States products and services and United States suppliers to the markets of that country, as determined by the United States Trade Representative.”

[Amendment by section 342(g) of Pub. L. 103-465 to section 401 of act June 21, 1938, set out above, effective on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], see section 344(b) of Pub. L. 103-465, set out as an Effective Date of 1994 Amendment note under section 2512 of Title 19, Customs Duties.]

[Amendment by subsec. 381(d) of Pub. L. 103-182 to section 401 of act June 21, 1938, set out above, effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 381(e) of Pub. L. 103-182, set out as an Effective Date of 1993 Amendment note under section 2511 of Title 19, Customs Duties.]

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 904, 907, 912, 922, 931, 932, 946 of this title.

**§ 904. Loans by Secretary of Agriculture for electrical plants and transmission lines; preferences; consent of State authorities**

The Secretary is authorized and empowered, from the sums hereinbefore authorized, to make loans for rural electrification to persons, corporations, States, Territories, and subdivisions and agencies thereof, municipalities, peoples' utility districts and cooperative, nonprofit, or limited-dividend associations, organized under the laws of any State or Territory of the United States, for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines or systems for the furnishing of electric energy to persons in rural areas who are not receiving central station service and for the furnishing and improving of electric service to persons in rural areas, including by assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems, and loans, from funds available under the provisions of sections 903(d) and 903(e) of this title but without regard to the 25 per centum limitation therein contained, to cooperative associations and municipalities for the purpose of enabling said cooperative associations, and municipalities to the extent that such indebtedness was incurred with respect to electric transmission and distribution lines or systems or portions thereof serving persons in rural areas, to discharge or refinance long-term debts owned by them to the Tennessee Valley Authority on account of loans made or credit extended under the terms of the Tennessee Valley Authority Act of 1933, as amended [16 U.S.C. 831 et seq.]: *Provided*, That the Secretary, in making such loans, shall give preference to States, Territories, and subdivisions and agencies thereof, municipalities, peoples' utility districts, and cooperative, nonprofit, or limited-dividend associations, the projects of which comply with the requirements of this chapter. Such loans shall be on such terms and conditions relating to the expenditure of the moneys loaned and the security therefor as the Secretary shall determine and may be made payable in whole or in part out of the income: *Provided, further*, That all such loans shall be self-liquidating within a period of not to exceed thirty-five years, and shall bear interest at the rate of 2 per centum per annum; interest rates on the unmatured and unpaid balance of any loans made pursuant to this section prior to September 21, 1944, shall be adjusted to 2 per centum per annum, and the maturity date of any such loans may be readjusted to occur at a date not beyond thirty-five years from the date of such loan: *And provided further*, That no loan for the construction, operation, or enlargement of any generating plant shall be made unless the consent of the State authority having jurisdiction in the premises is first obtained. Loans under this section and section 905 of this title shall not be made unless the Secretary finds and certifies that in his judgment the security therefor is reasonably adequate and such loan will be repaid within the time agreed.

(May 20, 1936, ch. 432, title I, § 4, 49 Stat. 1365; Sept. 21, 1944, ch. 412, title V, §§ 502(a), 503, 58 Stat. 739, 740; Dec. 23, 1944, ch. 725, 58 Stat. 925; June 29, 1948, ch. 703, 62 Stat. 1070; Oct. 28, 1949, ch. 776, §§ 2, 4(e), 63 Stat. 948; June 15, 1955, ch. 139, § 2, 69 Stat. 132; Nov. 1, 1993, Pub. L. 103-129, § 2(c)(2), 107 Stat. 1363; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

## REFERENCES IN TEXT

The Tennessee Valley Authority Act of 1933, as amended, referred to in text, is act May 18, 1933, ch. 32, 48 Stat. 58, as amended, which is classified generally to chapter 12A (§ 831 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 831 of Title 16 and Tables.

## AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator”.

1993—Pub. L. 103-129 inserted “and for the furnishing and improving of electric service to persons in rural areas, including by assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems” after “central station service”.

1955—Act June 15, 1955, substituted “25 per centum” for “10 per centum”.

1949—Act Oct. 28, 1949, inserted “for rural electrification” after “to make loans” in first sentence, and inserted “title I,” in credit of act May 20, 1936.

1948—Act June 29, 1948, permitted certain municipalities to refinance with R.E.A. their indebtedness with T.V.A.

1944—Act Dec. 23, 1944, inserted provision authorizing loans to cooperative associations to enable them to discharge or refinance debts owed to the Tennessee Valley Authority.

Act Sept. 21, 1944, extended limit of self-liquidating period from 25 to 35 years and changing the rate of interest.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 903, 905, 907, 912, 922, 931, 932, 936b, 948 of this title; title 16 section 2708.

**§ 905. Loans for electrical and plumbing equipment; persons eligible for loans**

The Secretary is authorized and empowered, from the sums hereinbefore authorized, to make loans for the purpose of financing the wiring of the premises of persons in rural areas and the acquisition and installation of electrical and plumbing appliances and equipment. Such loans may be made to any of the borrowers of funds loaned under the provisions of section 904 of this title, or to any person, firm, or corporation supplying or installing the said wiring, appliances, or equipment. Such loans shall be for such terms, subject to such conditions, and so, secured as reasonably to assure repayment thereof, and shall be at a rate of interest of 2 per centum per annum; interest rates on the unmatured and unpaid balance of any loans made pursuant to this section prior to September 21, 1944, shall be adjusted to 2 per centum per annum.

(May 20, 1936, ch. 432, title I, § 5, 49 Stat. 1365; Sept. 21, 1944, ch. 412, title V, § 502(b), 58 Stat. 739; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

## AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator”.

1949—Act Oct. 28, 1949, inserted “title I,” in credit of act May 20, 1936.

1944—Act Sept. 21, 1944, substituted a rate of interest of two per centum per annum for a former rate equal to the average rate of interest payable by the United States on certain of its obligations.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 903, 904, 912, 931, 932 of this title.

### § 906. Authorization of appropriations; testimony by Secretary of Agriculture before Congressional committees in justification of budget requests

For the purpose of administering this chapter and for the purpose of making the studies, investigations, publications, and reports herein provided for, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as shall be necessary. On or before February 15, of each calendar year beginning with calendar year 1976, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year for the purpose of administering this chapter and for the purpose of making the studies, investigations, publications, and reports herein authorized.

(May 20, 1936, ch. 432, title I, § 6, 49 Stat. 1365; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Nov. 4, 1975, Pub. L. 94-124, § 3, 89 Stat. 677; Nov. 2, 1994, Pub. L. 103-437, § 4(a)(3), 108 Stat. 4581.)

#### AMENDMENTS

1994—Pub. L. 103-437 substituted “Committee on Agriculture, Nutrition, and Forestry” for “Committee on Agriculture and Forestry”.

1975—Pub. L. 94-124 inserted requirement that the Secretary of Agriculture testify before the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry each calendar year on or before February 15th or other date specified by the Committees to provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year.

1949—Act Oct. 28, 1949, inserted “title I,” in credit of act May 20, 1936.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 911 of this title.

### § 906a. Use of funds outside the United States or its territories prohibited

No funds provided under this chapter shall be used outside the United States or any of its territories.

(Pub. L. 93-32, § 10, May 11, 1973, 87 Stat. 71.)

#### CODIFICATION

Section was not enacted as part of the Rural Electrification Act of 1936 which comprises this chapter.

#### EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

### § 907. Acquisition of property pledged for loans; disposition; sale of pledged property by borrower

The Secretary is authorized and empowered to bid for and purchase at any foreclosure or other sale, or otherwise to acquire, property pledged or mortgaged to secure any loan made pursuant to this chapter; to pay the purchase price and any costs and expenses incurred in connection therewith from the sums authorized in section 903 of this title; to accept title to any property so purchased or acquired in the name of the United States of America; to operate or lease such property for such period as may be deemed necessary or advisable to protect the investment therein, but not to exceed five years after the acquisition thereof; and to sell such property so purchased or acquired, upon such terms and for such consideration as the Secretary shall determine to be reasonable.

No borrower of funds under sections 904 or 922 of this title shall, without the approval of the Secretary, sell or dispose of its property, rights, or franchises, acquired under the provisions of this chapter, until any loan obtained from the Rural Electrification Administration, including all interest and charges, shall have been repaid. (May 20, 1936, ch. 432, title I, § 7, 49 Stat. 1365; Oct. 28, 1949, ch. 776, §§ 2, 4(f), 63 Stat. 948; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

#### AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1949—Act Oct. 28, 1949, inserted “or section 922” after “904” in second par., and inserted “title I,” in credit of act May 20, 1936.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 903, 932 of this title.

### § 908. Transfer of functions of Administration created by Executive Order 7037

The administration of loans and contracts entered into by the Rural Electrification Administration established by Executive Order Numbered 7037, dated May 11, 1935, may be vested by the President in the Secretary; and in such event the provisions of this chapter shall apply to said loans and contracts to the extent that said provisions are not inconsistent therewith. The President may transfer to the Secretary the jurisdiction and control of the records, property (including office equipment), and personnel used or employed in the exercise and performance of the functions of the Rural Electrification Administration established by such Executive order.

(May 20, 1936, ch. 432, title I, § 8, 49 Stat. 1366; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(4), 108 Stat. 3221.)

#### AMENDMENTS

1994—Pub. L. 103-354 in first sentence substituted “Secretary” for “Administrator authorized to be appointed by this chapter” and in second sentence substituted “Secretary” for “Rural Electrification Administration created by this chapter”.

1949—Act Oct. 28, 1949, inserted “title I,” in credit of act May 20, 1936.



## TRANSFER OF FUNCTIONS

Functions, property, and personnel of Rural Electrification Administration established by Executive Order Numbered 7037 of May 11, 1935, transferred by Executive Order 7458 of Sept. 26, 1936, to Rural Electrification Administration established by Rural Electrification Act of 1936 (49 Stat. 1363), which was transferred to Department of Agriculture by 1939 Reorg. Plan No. II, § 5, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, set out in the Appendix to Title 5, Government Organization and Employees.

**§ 909. Administration on nonpolitical basis; dismissal of officers or employees for violating provision**

This chapter shall be administered entirely on a nonpartisan basis, and in the appointment of officials, the selection of employees, and in the promotion of any such officials or employees, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency. If the Secretary herein provided for is found by the President of the United States to be guilty of a violation of this section, he shall be removed from office by the President, and any appointee or selection of officials or employees made by the Secretary who is found guilty of a violation of this chapter shall be removed by the Secretary.

(May 20, 1936, ch. 432, title I, § 9, 49 Stat. 1366; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

## AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1949—Act Oct. 28, 1949, inserted “title I,” in credit of act May 20, 1936.

**§ 910. Annual report**

The Secretary shall present annually to the Congress not later than the 20th day of April in each year a full report of his activities under this chapter.

(May 20, 1936, ch. 432, title I, § 10, 49 Stat. 1366; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Apr. 21, 1976, Pub. L. 94-273, § 11(1), 90 Stat. 378; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

## AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator”.

1976—Pub. L. 94-273 substituted “April” for “January”.

1949—Act Oct. 28, 1949, inserted “title I,” in credit of act May 20, 1936.

**§ 911. Acceptance of services of Federal or State officers; application of civil service laws; expenditures for supplies and equipment**

In order to carry out the provisions of this chapter the Secretary may accept and utilize such voluntary and uncompensated services of Federal, State, and local officers and employees as are available, and he may appoint and fix the compensation of attorneys, engineers, and experts and he may, subject to the civil-service laws, appoint such other officers and employees

as he may find necessary and prescribe their duties. The Secretary is authorized, from sums appropriated pursuant to section 906 of this title, to make such expenditures (including expenditures for personal services; supplies and equipment; lawbooks and books of reference; directories and periodicals; travel expenses; rental at the seat of government and elsewhere; the purchase, operation, or maintenance of passenger-carrying vehicles; and printing and binding) as are appropriate and necessary to carry out the provisions of this chapter.

(May 20, 1936, ch. 432, title I, § 11, 49 Stat. 1366; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

## REFERENCES IN TEXT

The civil service laws, referred to in text, are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

## CODIFICATION

Provisions which authorized the appointment and fixing of compensation of attorneys, engineers, and experts “without regard to the provisions of the civil service laws applicable to officers and employees of the United States” were omitted from the Code as obsolete and superseded. Such appointments are now subject to the civil service laws unless specifically excepted by those laws or by laws enacted subsequent to Executive Order 8743, Apr. 23, 1941, issued by the President pursuant to act Nov. 26, 1940, ch. 919, title I, § 1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5, Government Organization and Employees. As to the compensation of such personnel, sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. The Classification Act of 1949 was repealed by Pub. L. 89-554, Sept. 6, 1966, § 8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5. Section 5102 of Title 5 now contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

## AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” in two places.

1949—Act Oct. 28, 1949, inserted “title I,” in credit of act May 20, 1936.

**§ 911a. Repealed. Pub. L. 103-354, title II, § 235(a)(5), Oct. 13, 1994, 108 Stat. 3221**

Section, act May 20, 1936, ch. 432, title I, § 11a, as added Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2350, 104 Stat. 4037; amended Dec. 13, 1991, Pub. L. 102-237, title VII, § 703(a), 105 Stat. 1881, related to Assistant Administrator for Economic Development.

**§ 912. Extension of time for repayment of loans**

(a) The Secretary is authorized and empowered to extend the time of payment of interest or principal of any loans made by the Secretary pursuant to this chapter: *Provided, however*, That with respect to any loan made under section 904 or 922 of this title, the payment of interest or principal shall not be extended more than five years after such payment shall have become due, and with respect to any loan made under section 905 of this title, the payment of principal

or interest shall not be extended more than two years after such payment shall have become due: *And provided further*, That the provisions of this section shall not apply to any obligations or the security therefor which may be held by the Reconstruction Finance Corporation under the provisions of section 903 of this title.

(b)(1) Subject to limitations established in appropriations Acts, the Secretary shall permit any borrower to defer the payment of principal and interest on any insured or direct loan made under this chapter under circumstances described in this subsection, notwithstanding any limitation contained in subsection (a) of this section, except that such deferment shall not be permitted based on the determination of the Secretary of the financial hardship of the borrower.

(2)(A) In the case of deferments made to enable the borrower to provide financing to local businesses, the deferment shall be repaid in equal installments, without the accrual of interest, over the 60-month period beginning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred.

(B) In the case of deferments made to enable the borrower to provide community development assistance, technical assistance to businesses, and for other community, business, or economic development projects not included under subparagraph (A), the deferment shall be repaid in equal installments, without the accrual of interest, over the 120-month period beginning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred.

(3)(A) A borrower may defer its debt service payments only in an amount equal to an investment made by such borrower as described in paragraph (2).

(B) The amount of the deferment shall not exceed 50 percent of the total cost of a community or economic development project for which a deferment is provided under this subsection.

(C) The total amount of deferments under this subsection during each of the fiscal years 1990 through 1993 shall not exceed 3 percent of the total payments due during such fiscal year from all borrowers on direct and insured loans made under this chapter and shall not exceed 5 percent of such total payments due in each subsequent fiscal year.

(D) At the time of a deferment, the borrower shall make a payment to a cushion of credit account established and maintained pursuant to section 940c of this title in an amount equal to the amount of the payment deferred. The balance of such account shall not be reduced by the borrower below the level of the unpaid balance of the payment deferred. Subject to limitations established in annual appropriations Acts, such cushion of credit amounts and any other cushion of credit and advance payments of any borrower shall be included in the interest differential calculation under section 940c(b)(2)(A) of this title.

(4) The Secretary shall undertake all reasonable efforts to permit the full amount of deferments authorized by this subsection during each fiscal year.

(May 20, 1936, ch. 432, title I, §12, 49 Stat. 1366; Oct. 28, 1949, ch. 776, §§2, 4(f), 63 Stat. 948; Nov.

28, 1990, Pub. L. 101-624, title XXIII, §2344, 104 Stat. 4028; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

#### AMENDMENTS

1994—Subsecs. (a), (b)(1), (4). Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1990—Pub. L. 101-624 designated existing provisions as subsec. (a) and added subsec. (b).

1949—Act Oct. 28, 1949, inserted “or section 922” after “904” in first proviso, and inserted “title I,” in credit of act May 20, 1936.

#### ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, abolished Reconstruction Finance Corporation.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 912a of this title.

### § 912a. Rescheduling and refinancing of loans

In addition to the loan extension authority provided in section 912 of this title, the Secretary of Agriculture is authorized to adjust and readjust the schedules for payment of principal and interest on loans to borrowers under programs administered by the Secretary under this chapter, and to extend the maturity date of any such loan to a date not beyond forty years from the date of such loan where he determines such action is necessary because of the impairment of the economic feasibility of the system, or the loss, destruction, or damage of the property of such borrowers as a result of a major disaster.

(Pub. L. 91-606, title II, §236(a), Dec. 31, 1970, 84 Stat. 1754; Pub. L. 103-354, title II, §235(b)(1), Oct. 13, 1994, 108 Stat. 3221.)

#### CODIFICATION

Section was enacted as part of the Disaster Relief Act of 1970, and not as part of the Rural Electrification Act of 1936 which constitutes this chapter. Section was formerly classified to section 4455(a) of Title 42, The Public Health and Welfare.

#### AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary under this chapter” for “Rural Electrification Administration”.

#### EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as an Effective Date of 1970 Amendment note under section 165 of Title 26, Internal Revenue Code.

### § 913. Definitions

As used in this chapter the term “rural area”, except as provided in section 924(b) of this title, shall be deemed to mean any area of the United States not included within the boundaries of any urban area, as defined by the Bureau of the Census, and such term shall be deemed to include both the farm and nonfarm population thereof; the term “farm” shall be deemed to mean a farm as defined in the publications of the Bureau of the Census; the term “person” shall be deemed to mean any natural person, firm, corporation, or association; the term “Territory” shall be deemed to include any insular posses-

sion of the United States; and the term “Secretary” shall be deemed to mean the Secretary of Agriculture.

(May 20, 1936, ch. 432, title I, § 13, 49 Stat. 1367; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Nov. 1, 1993, Pub. L. 103-129, § 2(c)(3), 107 Stat. 1363; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(6), 108 Stat. 3221.)

#### AMENDMENTS

1994—Pub. L. 103-354 inserted before period at end “; and the term ‘Secretary’ shall be deemed to mean the Secretary of Agriculture”.

1993—Pub. L. 103-129 inserted “, except as provided in section 924(b) of this title,” before “shall be deemed to mean” and substituted “urban area, as defined by the Bureau of the Census” for “city, village, or borough having a population in excess of fifteen hundred inhabitants,”.

1949—Act Oct. 28, 1949, inserted “title I,” in credit of act May 20, 1936.

### § 914. Separability

If any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(May 20, 1936, ch. 432, title I, § 14, 49 Stat. 1367; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948.)

#### AMENDMENTS

1949—Act Oct. 28, 1949, inserted “title I,” in credit of act May 20, 1936.

### § 915. Purchase of financial and credit reports

The Secretary of Agriculture is authorized to purchase such financial and credit reports as may be necessary to carry out the Secretary’s authorized work: *Provided*, That purchases under this authority shall not be made unless provision is made therefor in the applicable appropriation and the cost thereof is not in excess of limitations prescribed therein.

(Sept. 21, 1944, ch. 412, title V, § 505, 58 Stat. 740; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(b)(2), 108 Stat. 3221.)

#### CODIFICATION

Section was enacted as part of the Department of Agriculture Organic Act of 1944, and not as part of the Rural Electrification Act of 1936 which constitutes this chapter.

#### AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary of Agriculture” for “Rural Electrification Administration” and “the Secretary’s” for “its”.

### § 916. Criteria for loans

In order to insure coordination of electric generation and transmission financing under this chapter with the national energy policy, the Secretary in making or guaranteeing loans for the construction, operation, or enlargement of generating plants or electric transmission lines or systems, shall consider such general criteria consistent with the provisions of this chapter as may be published by the Secretary of Energy.

(May 20, 1936, ch. 432, title I, § 16, as added Aug. 4, 1977, Pub. L. 95-91, title VII, § 709(f), 91 Stat.

608; amended Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

#### AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” before “in making”.

### § 917. Repealed. Pub. L. 102-237, title VII, § 703(b), Dec. 13, 1991, 105 Stat. 1881

Section, act May 20, 1936, ch. 432, title I, § 17, as added Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2343, 104 Stat. 4027, related to establishment of technical assistance unit to provide advice and technical assistance to electric and telephone borrowers under this chapter.

### § 918. General prohibitions

#### (a) No consideration of borrower’s level of general funds

The Secretary and the Governor of the telephone bank shall not deny or reduce any loan or loan advance under this chapter based on a borrower’s level of general funds.

#### (b) Loan origination fees

The Secretary and the Governor of the telephone bank may not charge any fee or charge not expressly provided in this chapter in connection with any loan made or guaranteed under this chapter.

#### (c) Consultants

##### (1) In general

To facilitate timely action on applications by borrowers for financial assistance under this chapter and for approvals required of the Rural Electrification Administration pursuant to the terms of outstanding loan or security instruments or otherwise, the Secretary may use consultants funded by the borrower, paid for out of the general funds of the borrower, for financial, legal, engineering, and other technical advice and services in connection with the review of the application by the Rural Electrification Administration.

##### (2) Conflicts of interest

The Secretary shall establish procedures for the selection and the provision of technical services by consultants to ensure that the consultants have no financial or other conflicts of interest in the outcome of the application of the borrower.

##### (3) Payment of costs

The Secretary may not, without the consent of the borrower, require, as a condition of processing an application for approval, that the borrower agree to pay the costs, fees, and expenses of consultants hired to provide technical or advisory services to the Secretary.

##### (4) Contracts, grants, and agreements

The Secretary may enter into such contracts, grants, or cooperative agreements as are necessary to carry out this section.

##### (5) Use of consultants

Nothing in this subsection shall limit the authority of the Secretary to retain the services of consultants from funds made available to the Secretary or otherwise.

(May 20, 1936, ch. 432, title I, § 18, as added Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2353, 104

Stat. 4039; amended Nov. 1, 1993, Pub. L. 103-129, §2(c)(4), 107 Stat. 1364; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

#### AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1993—Pub. L. 103-129 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

### SUBCHAPTER II—RURAL TELEPHONE SERVICE

#### SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 931, 939 of this title.

#### § 921. Congressional declaration of policy

It is declared to be the policy of the Congress that adequate telephone service be made generally available in rural areas through the improvement and expansion of existing telephone facilities and the construction and operation of such additional facilities as are required to assure the availability of adequate telephone service to the widest practicable number of rural users of such service.

(Oct. 28, 1949, ch. 776, §1, 63 Stat. 948.)

#### CODIFICATION

Section is composed of the first sentence of section 1 of act Oct. 28, 1949. The second sentence of section 1 of that act, which provided that: “In order to effectuate this policy, the Rural Electrification Act of 1936 [this chapter] is amended as hereinafter provided”, is omitted from the Code.

Section was not enacted as part of title II of the Rural Electrification Act of 1936 which comprises subchapter II of this chapter.

#### § 921a. Policy of financing of rural telephone program

It is hereby declared to be the policy of the Congress that the growing capital needs of the rural telephone systems require the establishment of a rural telephone bank which will furnish assured and viable sources of supplementary financing with the objective that said bank will become an entirely privately owned, operated, and financed corporation. The Congress further finds that many rural telephone systems require financing under the terms and conditions provided in this subchapter.

(Pub. L. 92-12, §1, May 7, 1971, 85 Stat. 29.)

#### CODIFICATION

The last sentence of section 1 of Pub. L. 92-12 provided that: “In order to effectuate this policy, the Rural Electrification Act of 1936, as amended (7 U.S.C. 921-924), is amended as hereinafter provided.”

Section was not enacted as part of title II of the Rural Electrification Act of 1936 which comprises this subchapter.

#### EFFECTIVE DATE

Section 7 of Pub. L. 92-12 provided that: “This Act [enacting sections 921a, 931, 932, and 941 to 950b of this title and amending sections 903(f) and 922 of this title] shall take effect upon enactment [May 7, 1971].”

#### RESERVATION OF RIGHT TO REPEAL, ALTER, OR AMEND PUB. L. 92-12

Section 6 of Pub. L. 92-12 provided that: “The right to repeal, alter, or amend this Act [enacting sections 921a,

931, 932, and 941 to 950b of this title, amending sections 903 and 922 of this title and sections 856 and 868 of former Title 31, and enacting provisions set out as notes under sections 856 and 868 of former Title 31] is expressly reserved.”

#### § 921b. Policy of expansion of markets for debentures

It is hereby declared to be the policy of the Congress that the Rural Telephone Bank should have the capability of obtaining adequate funds for its supplementary financing program at the lowest possible costs. In order to effectuate this policy, it will be necessary to expand the market for debentures to be issued by the Telephone Bank.

(Pub. L. 92-324, §1, June 30, 1972, 86 Stat. 390.)

#### CODIFICATION

The last sentence of section 1 of Pub. L. 92-324 provided that: “The Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), is therefore further amended as hereinafter provided.”

Section was not enacted as part of the title II of the Rural Electrification Act of 1936 which comprises this subchapter.

#### EFFECTIVE DATE

Section 4 of Pub. L. 92-324 provided that: “This Act [enacting this section and amending section 947 of this title] shall take effect upon enactment [June 30, 1972].”

#### RESERVATION OF RIGHT TO REPEAL, ALTER, OR AMEND PUB. L. 92-324

Section 3 of Pub. L. 92-324 provided that: “The right to repeal, alter, or amend this Act [enacting this section and amending section 947 of this title] is expressly reserved.”

#### § 922. Loans for rural telephone service

From such sums as are from time to time made available by the Congress to the Secretary for such purpose, pursuant to section 903 of this title, the Secretary is authorized and empowered to make loans to persons now providing or who may hereafter provide telephone service in rural areas, to public bodies now providing telephone service in rural areas and to cooperative, nonprofit, limited dividend, or mutual associations. Except as otherwise provided by this subchapter, such loans shall be made under the same terms and conditions as are provided in section 904 of this title, for the purpose of financing the improvement, expansion, construction, acquisition, and operation of telephone lines, facilities, or systems to furnish and improve telephone service in rural areas: *Provided, however,* That the Secretary, in making such loans, shall give preference to persons providing telephone service in rural areas, to public bodies now providing telephone service in rural areas, and to cooperative, nonprofit, limited, dividend, or mutual associations: *And provided further,* That for a period of one year from and after October 28, 1949, applications for loans received by the Secretary from persons who on October 28, 1949, are engaged in the operation of existing telephone service in rural areas shall be considered and acted upon before action is taken upon any application received from any other person for any loan to finance the furnishing or improvement of telephone service to substantially

the same subscribers. The Secretary in making such loans shall, insofar as possible, obtain assurance that the telephone service to be furnished or improved thereby will be made available to the widest practical number of rural users. When it is determined by the Secretary to be necessary in order to furnish or improve telephone service in rural areas, such loans may be made for the improvement, expansion, construction, acquisition, and operation of telephone lines, facilities, or systems without regard to their geographical location. The Secretary is further authorized and empowered to make loans for the purpose of refinancing outstanding indebtedness of persons furnishing telephone service in rural areas: *Provided*, That such refinancing shall be determined by the Secretary to be necessary in order to furnish and improve telephone service in rural areas: *And provided further*, That such refinancing shall constitute not more than 40 per centum of any loan made under this subchapter. Loans under this section shall not be made unless the Secretary finds and certifies that in his judgment the security therefor is reasonably adequate and such loan will be repaid within the time agreed, nor shall such loan be made in any State which now has or may hereafter have a State regulatory body having authority to regulate telephone service and to require certificates of convenience and necessity to the applicant unless such certificate from such agency is first obtained. In a State in which there is no such agency or regulatory body legally authorized to issue such certificates to the applicant, no loan shall be made under this section unless the Secretary shall determine (and set forth his reasons therefor in writing) that no duplication of lines, facilities, or systems, providing reasonably adequate services will result therefrom.

(May 20, 1936, ch. 432, title II, § 201, as added Oct. 28, 1949, ch. 776, § 5, 63 Stat. 948; amended May 7, 1971, Pub. L. 92-12, § 3(b), 85 Stat. 37; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

#### AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1971—Pub. L. 92-12 inserted “, to public bodies now providing telephone service in rural areas” after “areas” in first sentence and after “areas” in first proviso of second sentence.

#### EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-12 effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as an Effective Date note under section 921a of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 907, 912, 927, 931, 932, 946, 948, 950b of this title.

### § 923. State regulation of telephone service

Nothing contained in this chapter shall be construed to deprive any State commission, board, or other agency of jurisdiction, under any State law, now or hereafter effective, to regulate telephone service which is not subject to regulation by the Federal Communications Commission, under the Communications Act of

1934 [47 U.S.C. 151 et seq.], including the rates for such service.

(May 20, 1936, ch. 432, title II, § 202, as added Oct. 28, 1949, ch. 776, § 5, 63 Stat. 948.)

#### REFERENCES IN TEXT

The Communications Act of 1934, referred to in text, is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended, which is classified principally to chapter 5 (§ 151 et seq.) of Title 47, Telegraphs, Telephones, and Radiotelegraphs. For complete classification of this Act to the Code, see section 609 of Title 47 and Tables.

### § 924. Definition of telephone service and rural area

(a) As used in this subchapter, the term “telephone service” shall be deemed to mean any communication service for the transmission or reception of voice, data, sounds, signals, pictures, writing, or signs of all kinds by wire, fiber, radio, light, or other visual or electromagnetic means, and shall include all telephone lines, facilities, or systems used in the rendition of such service; but shall not be deemed to mean message telegram service or community antenna television system services or facilities other than those intended exclusively for educational purposes, or radio broadcasting services or facilities within the meaning of section 153(o) of title 47.

(b) As used in this subchapter, the term “rural area” shall be deemed to mean any area of the United States not included within the boundaries of any incorporated or unincorporated city, village, or borough having a population in excess of 5,000 inhabitants.

(May 20, 1936, ch. 432, title II, § 203, as added Oct. 28, 1949, ch. 776, § 5, 63 Stat. 948; amended Oct. 23, 1962, Pub. L. 87-862, 76 Stat. 1140; Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2354, 104 Stat. 4039; Nov. 1, 1993, Pub. L. 103-129, § 2(c)(5), 107 Stat. 1364.)

#### AMENDMENTS

1993—Subsec. (b). Pub. L. 103-129 substituted “5,000” for “one thousand five hundred”.

1990—Subsec. (a). Pub. L. 101-624 inserted “or reception” after “transmission” and “data,” after “voice,” and substituted “by wire, fiber, radio, light, or other visual or electromagnetic means” for “through the use of electricity between the transmitting and receiving apparatus”.

1962—Subsec. (a). Pub. L. 87-862 included the transmission of sounds, signals, pictures, writing, or signs of all kinds within “telephone service”, and substituted “message telegram service or community antenna television system services or facilities other than those intended exclusively for educational purposes” for “telegram services or facilities”.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 913, 948, 950aaa-3, 950aaa-4 of this title.

### § 925. Loan feasibility

The Secretary and the Governor of the telephone bank may not, as a condition of making a telephone loan to an applicant therefor, require the applicant to—

- (1) increase the rates charged to the applicant's customers or subscribers; or
- (2) increase the applicant's ratio of—

(A) net income or margins before interest; to

(B) the interest requirements on all of the applicant's outstanding and proposed loans.

(May 20, 1936, ch. 432, title II, § 204, as added Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2355, 104 Stat. 4039; amended Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

#### AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator”.

### § 926. Certain rural development investments by qualified telephone borrowers not treated as dividends or distributions

#### (a) In general

The Secretary and the Governor of the telephone bank shall not—

(1) treat any amount invested by any qualified telephone borrower for any purpose described in section 2204b(c)(2) of this title (including any investment in, or extension of credit, guarantee, or advance made to, an affiliated company of the borrower, that is used by such company for such a purpose) as a dividend or distribution of capital to the extent that, immediately after such investment, the aggregate of such investments does not exceed  $\frac{1}{2}$  of the net worth of the borrower; or

(2) require a qualified telephone borrower to obtain the approval of the Secretary or the Governor of the telephone bank in order to make an investment described in paragraph (1).

#### (b) “Qualified telephone borrower” defined

As used in subsection (a) of this section, the term “qualified telephone borrower” means a person—

(1) to whom a telephone loan has been made or guaranteed under this chapter; and

(2) whose net worth is at least 20 percent of the total assets of such person.

(May 20, 1936, ch. 432, title II, § 205, as added Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2356, 104 Stat. 4039; amended Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

#### AMENDMENTS

1994—Subsec. (a). Pub. L. 103-354 substituted “Secretary” for “Administrator” in two places.

### § 927. General duties and prohibitions

#### (a) Duties

The Secretary and the Governor of the telephone bank shall—

(1) notwithstanding section 553(a)(2) of title 5, cause to be published in the Federal Register, in accordance with subsections (b) through (e) of section 553 of such title, all rules, regulations, bulletins, and other written policy standards governing the operations of the telephone loan and loan guarantee programs administered under this chapter other than those relating to agency management and personnel;

(2) in evaluating the feasibility of a telephone loan to be made to a borrower for telephone services, use—

(A) with respect to items for which the regulatory authority with jurisdiction over the provision of such services has approved the depreciation rates used by the borrower, such approved rates; and

(B) with respect to other items, the average of the depreciation rates used by borrowers of telephone loans made under this chapter;

(3) annually determine and publish the average described in paragraph (2)(B); and

(4) make loans for all purposes for which telephone loans are authorized under section 922 or 948 of this title, to the extent of qualifying applications therefor.

#### (b) Prohibitions

The Secretary and the Governor of the telephone bank shall not—

(1) rescind an insured telephone loan, or a Rural Telephone Bank loan, made under this chapter without the consent of the borrower, unless all of the purposes for which telephone loans have been made to the borrower under this chapter have been accomplished with funds provided under this chapter;

(2) regulate the order or sequence of advances of funds under telephone loans made under this chapter to any borrower who has received any combination of telephone loans from the Secretary, the Rural Telephone Bank, or the Federal Financing Bank; or

(3) deny a loan or advance to, or take any other adverse action against, an applicant for, or a borrower of, a telephone loan under this chapter for any reason that is not based on a rule, regulation, bulletin, or other written policy standard that has not been published pursuant to section 553 of title 5.

(May 20, 1936, ch. 432, title II, § 206, as added Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2357, 104 Stat. 4040; amended Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(7), (13), 108 Stat. 3221.)

#### AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” in subsecs. (a) and (b) and “Secretary” for “Rural Electrification Administration” in subsec. (b)(2).

### § 928. Prompt processing of telephone loans

Within ten days after the end of the second and fourth calendar quarters of each year, the Secretary shall submit to the Committee on Agriculture and the Committee on Appropriations of the House of Representatives, and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate, a report—

(1) identifying each completed application for a telephone loan under section 935 of this title, a guarantee of a telephone loan under section 936 of this title, or a loan under section 948 of this title, that has not been finally acted upon within ninety days after the date the completed application is submitted; and

(2) stating the reasons for the failure to finally act upon the completed applications within such ninety-day period.

(May 20, 1936, ch. 432, title II, § 207, as added Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2358, 104

Stat. 4041; amended Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

#### AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator”.

### SUBCHAPTER III—RURAL ELECTRIC AND TELEPHONE DIRECT LOAN PROGRAMS

#### SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 948, 950aa-1, 1926-1, 2008 of this title.

### § 930. Congressional declaration of policy

It is hereby declared to be the policy of the Congress that adequate funds should be made available to rural electric and telephone systems through direct, insured and guaranteed loans at interest rates which will allow them to achieve the objectives of this chapter and that such rural electric and telephone systems should be encouraged and assisted to develop their resources and ability to achieve the financial strength needed to enable them to satisfy their credit needs from their own financial organizations and other sources at reasonable rates and terms consistent with the loan applicant's ability to pay and achievement of this chapter's objectives.

(Pub. L. 93-32, § 1, May 11, 1973, 87 Stat. 65.)

#### CODIFICATION

The last sentence of section 1 of Pub. L. 93-32 provided that: “The Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), is therefore further amended as hereinafter provided.”

Section was not enacted as part of the Rural Electrification Act of 1936 which comprises this chapter.

#### EFFECTIVE DATE

Section 12 of Pub. L. 93-32 provided that: “This Act [enacting sections 906a, 930, and 933 to 940 of this title, amending sections 903, 931, 932, 945, 946, 947, and 948 of this title, and enacting provisions set out as notes under this section] shall take effect upon enactment [May 11, 1973].”

#### RESERVATION OF RIGHT TO REPEAL, ALTER, OR AMEND PUB. L. 93-32

Section 11 of Pub. L. 93-32 provided that: “The right to repeal, alter, or amend, this Act [enacting sections 906a, 930, and 933 to 940 of this title, amending sections 903, 931, 932, 945, 946, 947, and 948 of this title, and enacting provisions set out as notes under this section] is expressly reserved.”

### § 931. Rural Electrification and Telephone Revolving Fund

(a)<sup>1</sup> There is hereby established in the Treasury of the United States a fund, to be known as the Rural Electrification and Telephone Revolving Fund (hereinafter referred to as the “fund”), consisting of:

(1) all notes, bonds, obligations, liens, mortgages, and property delivered or assigned to the Secretary pursuant to loans heretofore or hereafter made under sections 904, 905, and 922 of this title and under this subchapter, as of May 11, 1973, and all proceeds from the sales hereunder of such notes, bonds, obligations,

liens, mortgages, and property, which shall be transferred to and be assets of the funds;

(2) undisbursed balances of electric and telephone loans made under sections 904, 905, and 922 of this title, which as of May 11, 1973, shall be transferred to and be assets of the fund;

(3) notwithstanding section 903(a) of this title, all collections of principal and interest received on and after July 1, 1972, on notes, bonds, judgments, or other obligations made or held under subchapters I and II of this chapter and under this subchapter, except for net collection proceeds previously appropriated for the purchase of class A stock in the Rural Telephone Bank, which shall be paid into and be assets of the fund;

(4) all appropriations for interest subsidies and losses required under this subchapter which may hereafter be made by the Congress and the unobligated balances of any funds made available for loans under the item “Rural Electrification Administration” in the Department of Agriculture and Agriculture-Environmental and Consumer Protection Appropriations Acts;

(5) moneys borrowed from the Secretary of the Treasury pursuant to section 934(a) of this title;

(6) shares of the capital stock of the Rural Telephone Bank purchased by the United States pursuant to section 946(a) of this title and moneys received from said bank upon retirement of said shares of stock in accordance with the provisions of subchapter IV of this chapter, which said shares and moneys shall be assets of the fund.

(May 20, 1936, ch. 432, title III, § 301, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 29; amended May 11, 1973, Pub. L. 93-32, § 2, 87 Stat. 66; Oct. 20, 1976, Pub. L. 94-570, § 2, 90 Stat. 2701; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

#### AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103-354 substituted “Secretary” for “Administrator”.

1976—Subsec. (a)(4). Pub. L. 94-570 provided for inclusion in the fund the unobligated balances of any funds made available for loans under item “Rural Electrification Administration” in the Department of Agriculture and Agriculture-Environmental and Consumer Protection Appropriation Acts.

1973—Pub. L. 93-32 substituted provisions establishing the Rural Electrification and Telephone Revolving Fund and enumerating its constituent parts, for provisions establishing a rural telephone account in the United States Treasury.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-570 effective Oct. 20, 1976, see section 4 of Pub. L. 94-570, set out as a note under section 935 of this title.

#### EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-32 effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as an Effective Date note under section 930 of this title.

#### EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 946 of this title.

<sup>1</sup> So in original. No subsec. (b) has been enacted.

**§ 931a. Level of loan programs under Rural Electrification and Telephone Revolving Fund**

On and after October 28, 1991, no funds in this Act or any other Act shall be available to carry out loan programs under the Rural Electrification and Telephone Revolving Fund at levels other than those provided for in advance in appropriations Acts.

(Pub. L. 102-142, title III, Oct. 28, 1991, 105 Stat. 903.)

**CODIFICATION**

Section was enacted as part of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1992, and not as part of the Rural Electrification Act of 1936 which comprises this chapter.

**§ 932. Liabilities and uses of Rural Electrification and Telephone Revolving Fund**

**(a) Liabilities and obligations of fund**

The notes of the Secretary to the Secretary of the Treasury to obtain funds for loans under sections 904, 905, and 922 of this title, and all other liabilities against the appropriations or assets in the fund in connection with electrification and telephone loan operations shall be liabilities of the fund, and all other obligations against such appropriations or assets in the fund arising out of electrification and telephone loan operations shall be obligations of the fund.

**(b) Uses of fund assets**

The assets of the fund shall be available only for the following purposes:

(1) loans which could be insured under this subchapter, and for advances in connection with such loans and loans previously made, as of May 11, 1973, under sections 904, 905, and 922 of this title;

(2) payment of principal when due (without interest) on outstanding loans to the Secretary from the Secretary of the Treasury for electrification and telephone purposes pursuant to section 903(a) of this title and payment of principal and interest when due on loans to the Secretary from the Secretary of the Treasury pursuant to section 934(a) of this title;

(3) payment of amounts to which the holder of notes is entitled on insured loans: *Provided*, That payments other than final payments need not be remitted to the holder until due or until the next agreed annual, semiannual, or quarterly remittance date;

(4) payment to the holder of insured notes of any defaulted installment or, upon assignment of the note of the Secretary at his request, the entire balance due on the note;

(5) purchase of notes in accordance with contracts of insurance entered into by the Secretary;

(6) payment in compliance with contracts of guarantee;

(7) payment of taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application, and transmittal of collections or necessary to obtain credit reports on applicants or borrowers, expenses for necessary services, including construction, inspections, commercial appraisals,

loan servicing, consulting business advisory or other commercial and technical services, and other program services, and other expenses and advances authorized in section 907 of this title in connection with insured loans. Such items may be paid in connection with guaranteed loans after or in connection with the acquisition of such loans or security thereof after default, to the extent determined to be necessary to protect the interest of the Government, or in connection with any other activity authorized in this chapter;

(8) payment of the purchase price and any costs and expenses incurred in connection with the purchase, acquisition, or operation of property pursuant to section 907 of this title.

**(c) Separate electric and telephone accounts**

(1) The Secretary shall maintain two separate accounts within the fund, which shall be known as the electric account and the telephone account, respectively.

(2)(A) The Secretary shall account for the assets, liabilities, income, expenses, and equity of the fund attributable to electrification loan operations in the electric account.

(B) The Secretary shall account for the assets, liabilities, income, expenses, and equity of the fund attributable to telephone loan operations in the telephone account.

(3)(A) The assets accounted for in the electric account shall be available solely for electrification loan operations under this chapter.

(B) The assets accounted for in the telephone account shall be available solely for telephone loan operations under this chapter (other than under subchapter IV of this chapter).

(May 20, 1936, ch. 432, title III, §302, as added May 7, 1971, Pub. L. 92-12, §2, 85 Stat. 30; amended May 11, 1973, Pub. L. 93-32, §2, 87 Stat. 66; Nov. 28, 1990, Pub. L. 101-624, title XXIII, §2359, 104 Stat. 4041; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

**AMENDMENTS**

1994—Subsecs. (a), (b)(2), (4), (5), (c)(1), (2). Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1990—Subsec. (c). Pub. L. 101-624 added subsec. (c).

1973—Pub. L. 93-32 substituted provisions setting out the liabilities of the Rural Electrification and Telephone Revolving Fund and the allowable purposes for which fund assets shall be available, for provisions, that the monies in the rural telephone account should remain on deposit in the Treasury of the United States until disbursed.

**EFFECTIVE DATE OF 1973 AMENDMENT**

Amendment by Pub. L. 93-32 effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as an Effective Date note under section 930 of this title.

**EFFECTIVE DATE**

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

**§ 933. Moneys in the Rural Electrification and Telephone Revolving Fund**

Moneys in the fund shall remain on deposit in the Treasury of the United States until disbursed.

(May 20, 1936, ch. 432, title III, §303, as added May 11, 1973, Pub. L. 93-32, §2, 87 Stat. 67.)



## EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 939 of this title.

**§ 934. Authorized financial transactions; interim notes; purchase of obligations for resale; sale of notes and certificates; liens**

(a) The Secretary is authorized to make and issue interim notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations of the fund and for making loans, advances and authorized expenditures out of the fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be agreed upon by the Secretary and the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the notes issued by the Secretary under this section. The Secretary of the Treasury is authorized and directed to purchase any notes of the Secretary issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which such securities may be issued under such chapter are extended to include the purchase of notes issued by the Secretary. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States: *Provided, however*, That such interim notes to the Secretary of the Treasury shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(b) The Secretary of the Treasury is authorized and directed to purchase for resale obligations insured through the fund when offered by the Secretary. Such resales shall be upon such terms and conditions as the Secretary of the Treasury shall determine. Purchases and resales by the Secretary of the Treasury hereunder shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(c) The Secretary may, on an insured basis or otherwise, sell and assign any notes in the fund or sell certificates of beneficial ownership therein to the Secretary of the Treasury or in the private market. Any sale by the Secretary of notes individually or in blocks shall be treated as a sale of assets for the purposes of chapter 11 of title 31, notwithstanding the fact that the Secretary, under an agreement with the purchaser or purchasers, holds the debt instruments evidencing the loans and holds or reinvests payments thereon as trustee and custodian for the purchaser or purchasers of the individual note or of the certificate of beneficial ownership in a

number of such notes. Security instruments taken by the Secretary in connection with any notes in the fund may constitute liens running to the United States notwithstanding the fact that such notes may be thereafter held by purchasers thereof.

(May 20, 1936, ch. 432, title III, § 304, as added May 11, 1973, Pub. L. 93-32, § 2, 87 Stat. 67; amended Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

## CODIFICATION

In subsecs. (a) and (c), “chapter 31 of title 31”, “such chapter”, and “chapter 11 of title 31” substituted for “the Second Liberty Bond Act, as amended”, “such Act, as amended”, and “the Budget and Accounting Act, 1921 [31 U.S.C. 1 et seq.]”, respectively, on authority of Pub. L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

## AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

## EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 931, 932, 939 of this title.

**§ 935. Insured loans; interest rates and lending levels**

**(a) In general**

The Secretary is authorized to make insured loans under this subchapter and at the interest rates hereinafter provided to the full extent of the assets available in the fund, subject only to limitations as to amounts authorized for loans and advances as may be from time to time imposed by the Congress of the United States for loans to be made in any one year, which amounts shall remain available until expended: *Provided*, That the Congress in the annual appropriation Act may also authorize the transfer of any excess cash in the fund for deposit into the Treasury as miscellaneous receipts: *And provided further*, That any such loans and advances shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

**(b) Insured loans**

Loans made under this section shall be insured by the Secretary when purchased by a lender. As used in this chapter, an insured loan is one which is made, held, and serviced by the Secretary, and sold and insured by the Secretary hereunder; such loans shall be sold and insured by the Secretary without undue delay.

**(c) Insured electric loans**

**(1) Hardship loans**

**(A) In general**

The Secretary shall make insured electric loans, to the extent of qualifying applications for the loans, at an interest rate of 5

percent per year to any applicant for a loan who meets each of the following requirements:

(i) The average revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the average revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service.

(ii) The average residential revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the average residential revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service.

(iii) The average per capita income of the residents receiving electric service from the applicant is less than the average per capita income of the residents of the State in which the applicant provides service, or the median household income of the households receiving electric service from the applicant is less than the median household income of the households in the State.

#### **(B) Severe hardship loans**

In addition to hardship loans that are made under subparagraph (A), the Secretary may make an insured electric loan at an interest rate of 5 percent per year to an applicant for a loan if, in the sole discretion of the Secretary, the applicant has experienced a severe hardship.

#### **(C) Limitation**

Except as provided in subparagraph (D), the Secretary may not make a loan under this paragraph to an applicant for the purpose of furnishing or improving electric service to a consumer located in an urban area (as defined by the Bureau of the Census) if the average number of consumers per mile of line of the total electric system of the applicant exceeds 17.

#### **(D) Extremely high rates**

In addition to hardship loans that are made under subparagraphs (A) and (B), the Secretary shall make insured electric loans, to the extent of qualifying applications for the loans, at an interest rate of 5 percent per year to any applicant for a loan whose residential revenue exceeds 15.0 cents per kilowatt-hour sold. A qualifying application from such an applicant for the purpose of furnishing or improving electric service to a consumer located outside of an urbanized area shall not be subject to the conditions or limitation of subparagraph (A) or (C).

### **(2) Municipal rate loans**

#### **(A) In general**

The Secretary shall make insured electric loans, to the extent of qualifying applications for the loans, at the interest rate described in subparagraph (B) for the term or terms selected by the applicant pursuant to subparagraph (C).

### **(B) Interest rate**

#### **(i) In general**

Subject to clause (ii), the interest rate described in this subparagraph on a loan to a qualifying applicant shall be—

(I) the interest rate determined by the Secretary to be equal to the current market yield on outstanding municipal obligations with remaining periods to maturity similar to the term selected by the applicant pursuant to subparagraph (C), but not greater than the rate determined under section 1927(a)(3)(A) of this title that is based on the current market yield on outstanding municipal obligations; plus

(II) if the applicant for the loan makes an election pursuant to subparagraph (D) to include in the loan agreement the right of the applicant to prepay the loan, a rate equal to the amount by which—

(aa) the interest rate on commercial loans for a similar period that afford the borrower such a right; exceeds

(bb) the interest rate on commercial loans for the period that do not afford the borrower such a right.

#### **(ii) Maximum rate**

The interest rate described in this subparagraph on a loan to an applicant for the loan shall not exceed 7 percent if—

(I) the average number of consumers per mile of line of the total electric system of the applicant is less than 5.50; or

(II)(aa) the average revenue per kilowatt-hour sold by the applicant is more than the average revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service; and

(bb) the average per capita income of the residents receiving electric service from the applicant is less than the average per capita income of the residents of the State in which the applicant provides service, or the median household income of the households receiving electric service from the applicant is less than the median household income of the households in the State.

#### **(iii) Exception**

Clause (ii) shall not apply to a loan to be made to an applicant for the purpose of furnishing or improving electric service to consumers located in an urban area (as defined by the Bureau of the Census) if the average number of consumers per mile of line of the total electric system of the applicant exceeds 17.

### **(C) Loan term**

#### **(i) In general**

Subject to clause (ii), the applicant for a loan under this paragraph may select the term for which an interest rate shall be determined pursuant to subparagraph (B), and, at the end of the term (and any succeeding term selected by the applicant under this subparagraph), may renew the loan for another term selected by the applicant.

**(ii) Maximum term****(I) Applicant**

The applicant may not select a term that ends more than 35 years after the beginning of the first term the applicant selects under clause (i).

**(II) Secretary**

The Secretary may prohibit an applicant from selecting a term that would result in the total term of the loan being greater than the expected useful life of the assets being financed.

**(D) Call provision**

The Secretary shall offer any applicant for a loan under this paragraph the option to include in the loan agreement the right of the applicant to prepay the loan on terms consistent with similar provisions of commercial loans.

**(3) Other source of credit not required in certain cases**

The Secretary may not require any applicant for a loan made under this subsection who is eligible for a loan under paragraph (1) to obtain a loan from another source as a condition of approving the application for the loan or advancing any amount under the loan.

**(d) Insured telephone loans****(1) Hardship loans****(A) In general**

The Secretary shall make insured telephone loans, to the extent of qualifying applications for the loans, at an interest rate of 5 percent per year, to any applicant who meets each of the following requirements:

(i) The average number of subscribers per mile of line in the service area of the applicant is not more than 4.

(ii) The applicant is capable of producing net income or margins before interest of not less than 100 percent (but not more than 300 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

(iii) The Secretary has approved a telecommunications modernization plan for the State under paragraph (3) and, if the plan was developed by telephone borrowers under this subchapter, the applicant is a participant in the plan.

(iv) The average number of subscribers per mile of line in the area included in the proposed loan is not more than 17.

**(B) Authority to waive tier requirement**

The Secretary may waive the requirement of subparagraph (A)(ii) in any case in which the Secretary determines (and sets forth the reasons for the waiver in writing) that the requirement would prevent emergency restoration of the telephone system of the applicant or result in severe hardship to the applicant.

**(C) Effect of lack of funds**

On request of any applicant who is eligible for a loan under this paragraph for which funds are not available, the applicant shall

be considered to have applied for a loan under subchapter IV of this chapter.

**(2) Cost-of-money loans****(A) In general**

The Secretary may make insured telephone loans for the acquisition, purchase, and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and customer premise equipment) related to the furnishing, improvement, or extension of rural telecommunications service, at an interest rate equal to the then current cost of money to the Government of the United States for loans of similar maturity, but not more than 7 percent per year, to any applicant for a loan who meets the following requirements:

(i) The average number of subscribers per mile of line in the service area of the applicant is not more than 15, or the applicant is capable of producing net income or margins before interest of not less than 100 percent (but not more than 500 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

(ii) The Secretary has approved a telecommunications modernization plan for the State under paragraph (3) and, if the plan was developed by telephone borrowers under this subchapter, the applicant is a participant in the plan.

**(B) Concurrent loan authority**

On request of any applicant for a loan under this paragraph during any fiscal year, the Secretary shall—

(i) consider the application to be for a loan under this paragraph and a loan under section 948 of this title; and

(ii) if the applicant is eligible for a loan, make a loan to the applicant under this paragraph in an amount equal to the amount that bears the same ratio to the total amount of loans for which the applicant is eligible under this paragraph and under section 948 of this title, as the amount made available for loans under this paragraph for the fiscal year bears to the total amount made available for loans under this paragraph and under section 948 of this title for the fiscal year.

**(C) Effect of lack of funds**

On request of any applicant who is eligible for a loan under this paragraph for which funds are not available, the applicant shall be considered to have applied for a loan guarantee under section 936 of this title.

**(3) State telecommunications modernization plans****(A) Approval**

If, not later than 1 year after final regulations are promulgated to carry out this paragraph, any State, either by statute or through the public utility commission of the State, develops a telecommunications modernization plan that meets the requirements of subparagraph (B), the Secretary shall ap-

prove the plan for the State. If a State does not develop a plan in accordance with the requirements of the preceding sentence, the Secretary shall approve any telecommunications modernization plan for the State that meets the requirements that is developed by a majority of the borrowers of telephone loans made under this subchapter who are located in the State.

#### (B) Requirements

For purposes of subparagraph (A), a telecommunications modernization plan must, at a minimum, meet the following objectives:

- (i) The plan must provide for the elimination of party line service.
- (ii) The plan must provide for the availability of telecommunications services for improved business, educational, and medical services.
- (iii) The plan must encourage and improve computer networks and information highways for subscribers in rural areas.
- (iv) The plan must provide for—
  - (I) subscribers in rural areas to be able to receive through telephone lines—
    - (aa) conference calling;
    - (bb) video images; and
    - (cc) data at a rate of at least 1,000,000 bits of information per second; and
  - (II) the proper routing of information to subscribers.
- (v) The plan must provide for uniform deployment schedules to ensure that advanced services are deployed at the same time in rural and nonrural areas.
- (vi) The plan must provide for such additional requirements for service standards as may be required by the Secretary.

#### (C) Finality of approval

A telecommunications modernization plan approved under subparagraph (A) may not subsequently be disapproved. Notwithstanding paragraphs (1)(A)(iii) and (2)(A)(iii),<sup>1</sup> and section 948(b)(4)(C)<sup>2</sup> of this title, the Secretary and the Governor of the telephone bank may make a loan to a borrower serving a State that does not have a telecommunications modernization plan approved by the Secretary if the loan is made less than 1 year after the Secretary has adopted final regulations implementing this paragraph.

(May 20, 1936, ch. 432, title III, §305, as added May 11, 1973, Pub. L. 93-32, §2, 87 Stat. 68; amended Oct. 20, 1976, Pub. L. 94-570, §3, 90 Stat. 2701; Aug. 13, 1981, Pub. L. 97-35, title I, §165(a), 95 Stat. 379; Nov. 28, 1990, Pub. L. 101-624, title XXIII, §2361, 104 Stat. 4042; Nov. 1, 1993, Pub. L. 103-129, §2(a)(1), (c)(6), 107 Stat. 1356, 1364; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(8), (13), 108 Stat. 3221.)

#### AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” in heading for subsec. (c)(2)(C)(ii)(II) and wherever appearing in text.

<sup>1</sup> So in original. Probably should be paragraph “(2)(A)(ii)”.

<sup>2</sup> So in original. Probably should be section “948(b)(4)(B)”.

1993—Pub. L. 103-129, §2(c)(6)(A), amended section catchline generally.

Subsec. (a). Pub. L. 103-129, §2(c)(6)(A), inserted heading.

Subsec. (b). Pub. L. 103-129, §2(a)(1)(A), (B), (c)(6)(B), redesignated subsec. (c) as (b), inserted heading, and struck out former subsec. (b) which read as follows: “Insured loans made under this subchapter shall bear interest at 5 per centum per annum, except that the Administrator may make insured loans to electric or telephone borrowers at a lesser interest rate, but not less than 2 per centum per annum, if, in the Administrator’s sole discretion, the Administrator finds that the borrower—

“(1) has experienced extreme financial hardship; or

“(2) cannot, in accordance with generally accepted management and accounting principles and without charging rates to its customers or subscribers so high as to create a substantial disparity between such rates and the rates charged for similar service in the same or nearby areas by other suppliers, provide service consistent with the objectives of this chapter.”

Subsec. (c). Pub. L. 103-129, §2(a)(1)(C), added subsec. (c). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 103-129, §2(a)(1)(A), (C), added subsec. (d) and struck out former subsec. (d) which read as follows: “The Administrator shall make a telephone loan under this subchapter to an applicant therefor who is otherwise qualified to receive such a loan at the highest interest rate (but not less than the lowest interest rate, nor higher than the highest interest rate, specified in subsection (b) of this section) at which the borrower would be capable of producing net income or margins before interest payments of at least 100 percent (but not more than 150 percent) of the interest requirements on all of the applicant’s outstanding and proposed loans.”

1990—Subsec. (d). Pub. L. 101-624 added subsec. (d).

1981—Subsec. (b). Pub. L. 97-35 substituted provisions establishing an interest rate at 5 per centum per annum and a lower rate, but not less than 2 per cent, under the enumerated criteria, for provisions establishing standard and special rates, with special rates applicable under enumerated criteria.

1976—Subsec. (b). Pub. L. 94-570 struck out from introductory text “meets either of the following conditions” after “borrower which”; limited par. (1) to the telephone borrowers, substituting provision for an average subscriber density of three or fewer per mile at the end of the most recent calendar year ending at least six months before approval of the loan for prior provision for an average consumer or subscriber density of two or fewer per mile; substituted in par. (2) provision, limited to electric borrowers, respecting having an average consumer density of two or fewer per mile or an average adjusted plant revenue ratio of over 9.0 at end of the most recent calendar year ending at least six months before approval of the loan, determination of such ratio, and defining sum of distribution plant and general plant, gross revenue, and cost of power for prior provision for and average gross revenue per mile which is at least \$450 below the average gross revenue per mile of REA-financed electric systems, in the case of electric borrowers, or at least \$300 below the average gross revenue per mile of REA-financed telephone systems, in the case of telephone borrowers; and inserted in proviso of par. (2) “to a telephone or electric borrower” after “make a loan”.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Section 165(d) of Pub. L. 97-35 provided that: “The amendments made by subsection (a) of this section [amending this section] shall apply to loans the applications for which are received by the Rural Electrification Administration after July 24, 1981.”

#### EFFECTIVE DATE OF 1976 AMENDMENT; INTEREST RATE

Section 4 of Pub. L. 94-570 provided that: “This Act [amending this section and section 931 of this title]

shall take effect upon enactment [Oct. 20, 1976] except that insured loans made pursuant to applications for such loans which would otherwise lose eligibility for special rate financing upon such enactment, received by the Rural Electrification Administration and still pending on the date of enactment of this Act [Oct. 20, 1976], shall bear interest as determined under section 305(b) of the Rural Electrification Act of 1936 before its amendment by this Act [former provisions of subsec. (b) of this section].”

#### EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 928, 936b, 939, 940, 940d, 948 of this title.

### § 936. Guaranteed loans; accommodations and subordination of liens; interest rates; assignability of guaranteed loans and related guarantees

The Secretary may provide financial assistance to borrowers for purposes provided in this chapter by guaranteeing loans, in the full amount thereof, made by the Rural Telephone Bank, National Rural Utilities Cooperative Finance Corporation, and any other legally organized lending agency, or by accommodating or subordinating liens or mortgages in the fund held by the Secretary as owner or as trustee or custodian for purchases of notes from the fund, or by any combination of such guarantee, accommodation, or subordination. The Secretary shall not provide such assistance to any borrower of a telephone loan under this chapter unless the borrower specifically applies for such assistance. No fees or charges shall be assessed for any such guarantee, accommodation, or subordination. With respect to guarantees issued by the Secretary under this section, on the request of the borrower of any such loan so guaranteed, the loan shall be made by the Federal Financing Bank and at a rate of interest that is not more than the rate of interest applicable to other similar loans then being made or purchased by the Bank. Guaranteed loans shall bear interest at the rate agreed upon by the borrower and the lender. Guaranteed loans, and accommodation and subordination of liens or mortgages, may be made concurrently with an insured loan. The amount of guaranteed loans shall be subject only to such limitations as to amounts as may be authorized from time to time by the Congress of the United States: *Provided*, That any amounts guaranteed hereunder shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States. As used in this subchapter a guaranteed loan is one which is initially made, held, and serviced by a legally organized lending agency and which is guaranteed by the Secretary hereunder. A guaranteed loan, including the related guarantee, may be assigned to the extent provided in the contract of guarantee executed by the Secretary under this subchapter; the assignability of such loan and guarantee shall be governed exclusively by said contract of guarantee.

(May 20, 1936, ch. 432, title III, § 306, as added May 11, 1973, Pub. L. 93-32, § 2, 87 Stat. 69; amended Nov. 4, 1975, Pub. L. 94-124, § 1, 89 Stat. 677; Aug. 13, 1981, Pub. L. 97-35, title I, § 165(b), 95 Stat. 379; Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2362, 104 Stat. 4042; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

#### AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1990—Pub. L. 101-624 inserted provisions prohibiting Administrator from providing assistance to telephone borrower unless borrower specifically applies therefor.

1981—Pub. L. 97-35 inserted provisions relating to loans made by Federal Financing Bank with respect to guarantees issued under this section, and substituted “an insured loan” for “a loan insured at the standard rate”.

1975—Pub. L. 94-124 authorized assignment of guaranteed loans and their related guarantees and inserted “initially” before “made, held, and serviced” in provision defining guaranteed loans as that term is used in this subchapter.

#### EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

#### PREPAYMENT OF LOANS

Pub. L. 99-349, title I, July 2, 1986, 100 Stat. 713, related to the prepayment of loans made by the Federal Financing Bank, and guaranteed by the Administrator of the Rural Electrification Administration, prior to repeal by Pub. L. 99-509, title I, § 1011(b), Oct. 21, 1986, 100 Stat. 1876.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 928, 935, 936a, 936c, 939, 940a of this title.

### § 936a. Prepayment of loans

#### (a) Conditions for prepayment

Except as provided in subsection (c) of this section, a borrower of a loan made by the Federal Financing Bank and guaranteed under section 936 of this title may prepay such loan (or any loan advance thereunder) by paying the outstanding principal balance due on the loan (or advance), if—

- (1) the loan is outstanding on July 2, 1986;
- (2) private capital, with the existing loan guarantee, is used to replace the loan; and
- (3) the borrower certifies that any savings from such prepayment will be passed on to its customers or used to improve the financial strength of the borrower in cases of financial hardship.

#### (b) Charges on prepayment prohibited

No sums in addition to the payment of the outstanding principal balance due on the loan may be charged as the result of such prepayment against the borrower, the fund, or the Secretary.

#### (c) Disqualification for prepayment on finding of adverse affect on Federal Financing Bank

(1) A borrower will not qualify for prepayment under this section if, in the opinion of the Secretary of the Treasury, to prepay in such borrower's case would adversely affect the operation of the Federal Financing Bank.

(2) Paragraph (1) shall be effective in fiscal year 1987 only for any loan the prepayment of

the principal amount of which will cause the cumulative amount of net proceeds from all such prepayments made during such year to exceed \$2,017,500,000.

**(d) Amount of permissible prepayments; establishment of eligibility criteria**

(1) The Secretary shall permit, subject to subsection (a) of this section, prepayments of principal on loans in fiscal year 1987 under this section or Public Law 99-349 in such amounts as to realize net proceeds from all such prepayments in fiscal year 1987 in an amount not less than \$2,017,500,000.

(2) The Secretary shall establish—

(A) eligibility criteria to ensure that any loan prepayment activity required to be carried out under this subsection will be directed to those cooperative borrowers in greatest need of the benefits associated with prepayment, as determined by the Secretary; and

(B) such other eligibility criteria as the Secretary determines are necessary to carry out this subsection.

**(e) Assignability and transferability of guarantees of loans**

Any guarantee of a loan prepaid under this section shall be fully assignable under the provisions of section 936 of this title and transferable. However, the Secretary may require that any such guarantee, if transferred<sup>1</sup> or assigned, be transferred or assigned to a loan or security that, if sold, will be grouped with nonguaranteed loans or securities and sold in a manner to ensure that such sale will not unreasonably compete with the marketing of obligations of the United States.

(May 20, 1936, ch. 432, title III, § 306A, as added Oct. 21, 1986, Pub. L. 99-509, title I, § 1011(a), 100 Stat. 1875; amended Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(7), (13), 108 Stat. 3221.)

REFERENCES IN TEXT

Public Law 99-349, referred to in subsec. (d)(1), is Pub. L. 99-349, July 2, 1986, 100 Stat. 710, known as the Urgent Supplemental Appropriations Act, 1986. Provisions of title I of Pub. L. 99-349 relating to prepayment of loans were set out as a note under section 936 of this title and were repealed by Pub. L. 99-509, title I, § 1011(b), Oct. 21, 1986, 100 Stat. 1876. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Rural Electrification Administration” in subsec. (b) and “Secretary” for “Administrator” wherever appearing in subssecs. (d) and (e).

PREPAYMENT OF RURAL ELECTRIFICATION LOANS  
DURING FISCAL YEAR 1988

Pub. L. 100-203, title I, § 1401, Dec. 22, 1987, 101 Stat. 1330-20, provided that:

“(a) ELIGIBILITY TO PREPAY.—Notwithstanding subsections (c), (d), and (e) of section 306A of the Rural Electrification Act of 1936 (7 U.S.C. 936a(c), (d), and (e)), during fiscal year 1988, a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) may, at the option of the borrower, prepay such loan (or any loan advance thereunder) in accordance with subsections (a) and (b) of section 306A of such Act, except that any prepay-

ment that would cause the total amount of such prepayments during fiscal year 1988 to exceed \$2,000,000,000 shall be subject solely to the approval of the Secretary of the Treasury.

“(b) PRIORITY FOR APPROVAL.—In determining which borrowers shall be permitted to prepay loans under subsection (a):

“(1) The Administrator of the Rural Electrification Administration shall give priority to those 8 borrowers that were determined by the Administrator, prior to the date of the enactment of this Act [Dec. 22, 1987], to be eligible to prepay, or that prepaid, an advance under section 306A of such Act [7 U.S.C. 936a] (as in effect prior to the date of the enactment of this Act), except that to retain such priority a borrower shall—

“(A) notify the Administrator in writing, within 30 days after the issuance of regulations to carry out this section, of the intent of the borrower to prepay; and

“(B) complete such prepayment by disbursing funds to the Federal Financing Bank to prepay loan advances within 120 days after the issuance of such regulations.

“(2) In considering requests for prepayment under subsection (a) by borrowers not described in paragraph (1), the Administrator shall permit prepayment based on the order in which borrowers are prepared to disburse funds to the Federal Financing Bank to complete such prepayments. If more than 1 borrower is so prepared at the same time, and if the combined amount of such prepayments would cause the total amount of prepayments during fiscal year 1988, under this section, to exceed \$2,000,000,000, the Administrator shall—

“(A) base the determination on the date on which prepayment applications have been submitted; or

“(B) permit partial prepayment by two or more borrowers.

“(c) REGULATIONS.—Not later than 30 days after the date of enactment of this Act [Dec. 22, 1987], the Administrator of the Rural Electrification Administration shall issue such regulations as are necessary to carry out this section.

“(d) STUDY.—Not later than January 1, 1989, the Comptroller General of the United States shall—

“(1) study—

“(A) all benefits provided by Federal Financing Bank lending and the procedures and conditions for the prepayment of current Federal Financing Bank loans;

“(B) the benefits and costs to Federal Financing Bank borrowers of making prepayments; and

“(C) alternative conditions and procedures for prepayment of all Federal Financing Bank loans to balance Federal benefits with Federal costs; and

“(2) submit to Congress a report describing the results of such study, together with any appropriate recommendations.”

PREPAYMENT OF GUARANTEED LOANS; RESTRICTIONS

Pub. L. 100-202, § 101(k) [title VI, § 633], Dec. 22, 1987, 101 Stat. 1329-322, 1329-356, provided that: “Hereafter, notwithstanding section 306A(c), (d), and (e) of the Rural Electrification Act of 1936, as amended [7 U.S.C. 936a(c), (d), (e)], a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) may, at the option of the borrower, prepay such loan (or any loan advance thereunder) in accordance with section 306A(a) and (b) of such Act: *Provided*, That any prepayment in excess of \$2,500,000,000 shall be subject to the approval of the Secretary of the Treasury.”

Pub. L. 100-71, title I, July 11, 1987, 101 Stat. 429, provided in part that: “Hereafter, notwithstanding section 306A(d) of the Rural Electrification Act of 1936 (7 U.S.C. 936a(d)), a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) may, at the option of the borrower, prepay such loan (or any loan advance thereunder) in accordance with section 306A of such Act.”

<sup>1</sup> So in original. Probably should be “transferred”.

## REGULATIONS

Section 1011(c) of Pub. L. 99-509 provided that: “The Secretary of Agriculture shall issue regulations to implement this section [enacting sections 936a and 936b of this title and repealing provisions set out as a note under section 936 of this title] within 60 days after the date of enactment of this Act [Oct. 21, 1986]. Such regulations—

“(1) shall facilitate prepayment of loans under section 306A of the Rural Electrification Act of 1936 [this section], as added by subsection (a); and

“(2) may not require any rural utility that is a borrower of loans subject to section 306A to make unreasonable reductions in rates to its customers as a condition of such prepayment.”

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 501.

### § 936b. Sale or prepayment of direct or insured loans

#### (a) Discounted prepayment by borrowers of electric loans

##### (1) In general

Except as provided in paragraph (2), a direct or insured loan made under this chapter shall not be sold or prepaid at a value that is less than the outstanding principal balance on the loan.

##### (2) Exception

On request of the borrower, an electric loan made under this chapter, or a portion of such a loan, that was advanced before May 1, 1992, or has been advanced for not less than 2 years, shall be sold to or prepaid by the borrower at the lesser of—

(A) the outstanding principal balance on the loan; or

(B) the present value of the loan discounted from the face value at maturity at the rate established by the Secretary.

##### (3) Discount rate

The discount rate applicable to the prepayment under this subsection of a loan or loan advance shall be the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the remaining term of the loan.

##### (4) Tax exempt financing

If a borrower prepays a loan under this subsection using tax exempt financing, the discount shall be adjusted to ensure that the borrower receives a benefit that is equal to the benefit the borrower would receive if the borrower used fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Secretary may establish that are reasonable and necessary to carry out this subsection.

##### (5) Eligibility

###### (A) In general

A borrower that has prepaid an insured or direct loan shall under this chapter in the same manner as other borrowers, except that—

(i) a borrower that has prepaid a loan, either before or after October 21, 1992, at a

discount rate as provided by paragraph (3), shall not be eligible, except at the discretion of the Secretary, to apply for or receive direct or insured loans under this chapter during the 120-month period beginning on the date of the prepayment; and

(ii) a borrower that prepaid a loan before October 21, 1992, at a discount rate greater than that provided by paragraph (3), shall not be eligible—

(I) except at the discretion of the Secretary, to apply for or receive direct or insured loans described in clause (i) during the 180-month period beginning on the date of the prepayment; or

(II) to apply for or receive direct or insured loans described in clause (i) until the borrower has repaid to the Federal Government the sum of—

(aa) the amount (if any) by which the discount the borrower received by reason of the prepayment exceeds the discount the borrower would have received had the discount been based on the cost of funds to the Department of the Treasury at the time of the prepayment; and

(bb) interest on the amount described in item (aa), for the period beginning on the date of the prepayment and ending on the date of the repayment, at a rate equal to the average annual cost of borrowing by the Department of the Treasury.

#### (B) Effect on existing agreements

If a borrower and the Secretary have entered into an agreement with respect to a prepayment occurring before October 21, 1992, this paragraph shall supersede any provision in the agreement relating to the restoration of eligibility for loans under this chapter.

#### (C) Distribution borrowers

A distribution borrower not in default on the repayment of loans made or insured under this chapter shall be eligible for discounted prepayment as provided in this subsection. For the purpose of determining eligibility for discounted prepayment under this subsection or eligibility for assistance under this chapter, a default by a borrower from which a distribution borrower purchases wholesale power shall not be considered a default by the distribution borrower.

#### (6) Definitions

As used in this subsection:

##### (A) Direct loan

The term “direct loan” means a loan made under section 904 of this title.

##### (B) Insured loan

The term “insured loan” means a loan made under section 935 of this title.

#### (b) Mergers of electric borrowers

Notwithstanding subsection (a) of this section, a direct or insured loan may be prepaid by an electric borrower at the lesser of the outstanding principal balance due thereon or the present

value thereof discounted from the face value at maturity at the rate set by the Secretary if the borrower is an electrical organization which resulted from a merger or consolidation between a borrower and an organization which, prior to October 1, 1987, prepaid its direct or insured loans pursuant to this section. Prepayments by a borrower hereunder shall be made not later than one year after the effective date of the merger, consolidation, or other transaction. The discount rate to be set by the Secretary for direct or insured loans prepayments hereunder shall be based on the current cost of funds to the Department of the Treasury for obligations of comparable maturity to those being prepaid. If a borrower prepays using tax exempt financing, the discount shall be adjusted to make the discount equivalent to fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Secretary may establish which are reasonable and necessary to implement this provision. As used in this section, the term “direct loan” means a loan made under section 904 of this title.

(May 20, 1936, ch. 432, title III, §306B, as added Oct. 21, 1986, Pub. L. 99-509, title I, §1011(a), 100 Stat. 1876; amended Nov. 28, 1990, Pub. L. 101-624, title XXIII, §2387, 104 Stat. 4051; Oct. 21, 1992, Pub. L. 102-428, §2, 106 Stat. 2183; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

#### CODIFICATION

October 21, 1992, referred to in subsec. (a)(5)(A), (B), was in the original “the date of enactment of this subsection”, which was translated as meaning the date of enactment of Pub. L. 102-428, which amended subsec. (a) generally, to reflect the probable intent of Congress.

#### AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1992—Subsec. (a). Pub. L. 102-428, §2(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “A direct or insured loan made under this chapter shall not be sold or prepaid at a value less than the face value of any outstanding principal balance on such loan, except when sold to or prepaid by the borrower at the lesser of the outstanding principal balance due on the loan or the loan’s present value discounted from the face value at maturity at the rate set by the Administrator. The exception contained in the preceding sentence shall be effective for the period ending September 30, 1987.”

Subsec. (b). Pub. L. 102-428, §2(b), inserted heading.

1990—Pub. L. 101-624 designated existing provisions as subsec. (a) and added subsec. (b).

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 501.

### § 936c. Refinancing and prepayment of FFB loans

#### (a) In general

A borrower of a loan made by the Federal Financing Bank and guaranteed under section 936 of this title may, at the option of the borrower, refinance or prepay the loan or an advance on the loan, or any portion of the loan or advance.

#### (b) Penalty

##### (1) Determination of penalty

A penalty shall be assessed against a borrower that refinances or prepays a loan or loan

advance, or any portion of a loan or advance, under this section. Except as provided in paragraph (2), the penalty shall be equal to the lesser of—

(A) the difference between the outstanding principal balance of the loan being refinanced and the present value of the loan discounted at a rate equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the loan being refinanced or prepaid;

(B) 100 percent of the amount of interest for 1 year on the outstanding principal balance of the loan or loan advance, or any portion of the loan or advance, being refinanced, multiplied by the ratio that—

(i) the number of quarterly payment dates between the date of the refinancing or prepayment and the maturity date for the loan advance; bears to

(ii) the number of quarterly payment dates between the first quarterly payment date that occurs 12 years after the end of the year in which the amount being refinanced was advanced and the maturity date of the loan advance; and

(C)(i) the present value of 100 percent of the amount of interest for 1 year on the outstanding principal balance of the loan or loan advance, or any portion of the loan or advance, being refinanced or prepaid; plus

(ii) for the interval between the date of the refinancing or prepayment and the first quarterly payment date that occurs 12 years after the end of the year in which the amount being refinanced or prepaid was advanced, the present value of the difference between—

(I) each payment scheduled for the interval on the loan amount being refinanced or prepaid; and

(II) the payment amounts that would be required during the interval on the amounts being refinanced or prepaid if the interest rate on the loan were equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the loan being refinanced or prepaid.

#### (2) Limitation

##### (A) In general

Except as provided in subparagraph (B), the penalty provided by paragraph (1)(A) shall be required for refinancing or prepayment under this section.

##### (B) Exception

In the case of a loan advanced under an agreement that permits the refinancing or prepayment of the loan advance based on the payment of 1 year of interest on the outstanding principal balance of the loan advance, a borrower may, in lieu of the penalty required by paragraph (1)(A), pay a penalty as provided by—

(i) paragraph (1)(B), if the loan advance has reached the 12-year maturity required under the loan agreement for the refinancing or prepayment; or



(ii) paragraph (1)(C), if the loan advance has not reached the 12-year maturity required under the loan agreement for the refinancing or prepayment.

### **(3) Financing of penalty**

#### **(A) In general**

In the case of a refinancing under this section, a borrower may, at the option of the borrower, meet the penalty requirements of paragraph (1) by—

- (i) making a payment in the amount of the required penalty at the time of the refinancing; or
- (ii) increasing the outstanding principal balance of the loan advance guaranteed by the Secretary that is being refinanced under this section by the amount of the penalty.

#### **(B) Increased principal**

If a borrower meets the penalty requirements of paragraph (1) by increasing the outstanding principal balance of the loan advance that is being refinanced, the borrower shall make a payment at the time of the refinancing equal to 2.5 percent of the amount of the penalty that is added to the outstanding principal balance of the loan.

### **(c) Loan terms and conditions after refinancing**

#### **(1) In general**

On the payment of a penalty as provided by subsection (b) of this section, the loan or loan advance, or any portion of the loan or advance, shall be refinanced at the interest rate described in paragraph (2) for a term selected by the borrower pursuant to paragraph (3), except that this paragraph shall not apply if the loan advance, or any portion of the advance, is prepaid by the borrower.

#### **(2) Interest rate**

The interest rate on a loan refinanced under this section shall be determined to be equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to a term selected by the borrower pursuant to paragraph (3), except that such rate shall not be greater than 7 percent per year, subject to subsection (d) of this section.

#### **(3) Loan term**

Subject to paragraph (4), the borrower of a loan that is refinanced under this section—

- (A) shall select the term for which an interest rate shall be determined pursuant to paragraph (2); and
- (B) at the end of the term (and any succeeding term selected by the borrower under this paragraph), may renew the loan for another term selected by the borrower.

#### **(4) Maximum term**

The borrower may not select a term pursuant to paragraph (3) that ends after the maturity date set for the loan before the refinancing of the loan under this section.

#### **(5) Existing loans**

In the case of the refinancing of a loan of a borrower pursuant to this section and the in-

clusion of a penalty in the outstanding principal balance of the refinanced loan pursuant to subsection (b)(3) of this section—

(A) the refinancing and inclusion of the penalty shall not be subject to appropriations or limited by the amount provided during a fiscal year for new loans, loan guarantees, or other credit activity;

(B) the request of the borrower for the refinancing under this section may not be denied or delayed; and

(C) the borrower may not be limited in the selection of any refinancing or prepayment option provided by this section to the borrower.

### **(d) Maximum rate option**

#### **(1) In general**

Except as provided in paragraphs (2), (3), and (4), a borrower of a loan or loan advance, or any portion of the loan or advance, that is refinanced under this section shall have the option of ensuring that the interest rate on such loan, loan advance, or portion thereof does not exceed 7 percent per year.

#### **(2) Limitation**

A borrower may not exercise the option under paragraph (1) in the case of a loan or loan advance, or portion thereof, if the total amount of such loans for which such option would be exercised exceeds 50 percent of the outstanding principal balance of the loans made to such borrower and guaranteed under section 936 of this title.

#### **(3) Fee**

A borrower that exercises the maximum rate option under paragraph (1) shall, at the time of exercising such option, pay a fee equal to 1 percent of the outstanding principal balance of such loan or loan advance, or portion thereof, for which such option is exercised. Such fee shall be in addition to the penalties and other payments required under subsection (b) of this section.

#### **(4) Sunset**

The option provided under paragraph (1) shall not be available in the case of any loan or loan advance, or portion thereof, unless a written request to exercise such option is sent to the Secretary not later than 1 year after the effective date of regulations issued to carry out the Rural Electrification Loan Restructuring Act of 1993.

(May 20, 1936, ch. 432, title III, §306C, as added Aug. 10, 1993, Pub. L. 103-66, title I, §1201(a), 107 Stat. 327; amended Nov. 1, 1993, Pub. L. 103-129, §2(c)(10), 107 Stat. 1365; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

#### REFERENCES IN TEXT

The Rural Electrification Loan Restructuring Act of 1993, referred to in subsec. (d)(4), is Pub. L. 103-129, Nov. 1, 1993, 107 Stat. 1356. Section 6 of Pub. L. 103-129 relates to the issuance of regulations to carry out amendments made by the Act and is set out as a note under section 901 of this title. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 901 of this title and Tables.

#### AMENDMENTS

1994—Subsecs. (b)(3)(A)(ii), (d)(4). Pub. L. 103-354 substituted “Secretary” for “Administrator”.

1993—Subsec. (c)(2). Pub. L. 103-129, §2(c)(10)(A), inserted before period at end “, except that such rate shall not be greater than 7 percent per year, subject to subsection (d) of this section”.

Subsec. (d). Pub. L. 103-129, §2(c)(10)(B), added subsec. (d).

#### REGULATIONS

Section 1201(b) of Pub. L. 103-66 provided that: “Not later than 45 days after the date of enactment of this section [Aug. 10, 1993], the Administrator of the Rural Electrification Administration shall issue interim final regulations to carry out the amendment made by subsection (a) [enacting this section].”

### § 936d. Eligibility of distribution borrowers for loans, loan guarantees, and lien accommodations

For the purpose of determining the eligibility of a distribution borrower not in default on the repayment of a loan made or guaranteed under this chapter for a loan, loan guarantee, or lien accommodation under this subchapter, a default by a borrower from which the distribution borrower purchases wholesale power shall not—

- (1) be considered a default by the distribution borrower;
- (2) reduce the eligibility of the distribution borrower for assistance under this chapter; or
- (3) be the cause, directly or indirectly, of imposing any requirement or restriction on the borrower as a condition of the assistance, except such requirements or restrictions as are necessary to implement a debt restructuring agreed on by the power supply borrower and the Government.

(May 20, 1936, ch. 432, title III, §306D, as added Nov. 1, 1993, Pub. L. 103-129, §2(c)(7), 107 Stat. 1364.)

### § 936e. Administrative prohibitions applicable to certain electric borrowers

#### (a) In general

For the purpose of relieving borrowers of unnecessary and burdensome requirements, the Secretary, guided by the practices of private lenders with respect to similar credit risks, shall issue regulations, applicable to any electric borrower under this chapter whose net worth exceeds 110 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Secretary, to minimize those approval rights, requirements, restrictions, and prohibitions that the Secretary otherwise may establish with respect to the operations of such a borrower.

#### (b) Subordination or sharing of liens

At the request of a private lender providing financing to such a borrower for a capital investment, the Secretary shall, expeditiously, either offer to share the government's lien on the borrower's system or offer to subordinate the government's lien on that property financed by the private lender.

#### (c) Issuance of regulations

In issuing regulations implementing this section, the Secretary may establish requirements, guided by the practices of private lenders, to ensure that the security for any loan made or guaranteed under this chapter is reasonably adequate.

### (d) Authority of Secretary

Nothing in this section limits the authority of the Secretary to establish terms and conditions with respect to the use by borrowers of the proceeds of loans made or guaranteed under this chapter or to take any other action specifically authorized by law.

(May 20, 1936, ch. 432, title III, §306E, as added Nov. 1, 1993, Pub. L. 103-129, §2(c)(7), 107 Stat. 1365; amended Dec. 17, 1993, Pub. L. 103-201, §1, 107 Stat. 2342; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(8), (13), 108 Stat. 3221.)

#### AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” in heading of subsec. (d) and wherever appearing in text.

1993—Pub. L. 103-201 inserted “certain” before “electric” in section catchline and amended text generally. Prior to amendment, text read as follows: “The Administrator may not require prior approval of, impose any requirement, restriction, or prohibition with respect to the operations of, or deny or delay the granting of a lien accommodation to, any electric borrower under this chapter whose net worth exceeds 110 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Administrator.”

#### REGULATIONS

Section 2 of Pub. L. 103-201 provided that: “The Administrator of the Rural Electrification Administration shall issue interim final regulations implementing this Act [amending this section] not later than 180 days after enactment [Dec. 17, 1993]. If the regulations are not issued within such period of time, the Administrator may not, until the Administrator issues such regulations, require prior approval of, establish any requirement, restriction, or prohibition, with respect to the operations of any electric borrower under the Rural Electrification Act of 1936 [7 U.S.C. 90 et seq.] whose net worth exceeds 110 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Administrator.”

### § 937. Loans from other credit sources

When it appears to the Secretary that the loan applicant is able to obtain a loan for part of his credit needs from a responsible cooperative or other credit source at reasonable rates and terms consistent with the loan applicant's ability to pay and the achievement of this chapter's objectives, he may request the loan applicant to apply for and accept such a loan concurrently with an insured loan, subject, however, to full use being made by the Secretary of the funds made available hereunder for such insured loans under this subchapter. The Secretary may not request any applicant for an electric loan under this chapter to apply for and accept a loan in an amount exceeding 30 percent of the credit needs of the applicant.

(May 20, 1936, ch. 432, title III, §307, as added May 11, 1973, Pub. L. 93-32, §2, 87 Stat. 70; amended Aug. 13, 1981, Pub. L. 97-35, title I, §165(c), 95 Stat. 379; Nov. 1, 1993, Pub. L. 103-129, §2(c)(8), 107 Stat. 1365; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

#### AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1993—Pub. L. 103-129 inserted at end “The Administrator may not request any applicant for an electric

loan under this chapter to apply for and accept a loan in an amount exceeding 30 percent of the credit needs of the applicant.”

1981—Pub. L. 97-35 substituted “an insured loan” for “a loan insured at the standard rate”.

#### EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 939 of this title.

### § 938. Full faith and credit of the United States

Any contract of insurance or guarantee executed by the Secretary under this subchapter shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

(May 20, 1936, ch. 432, title III, §308, as added May 11, 1973, Pub. L. 93-32, §2, 87 Stat. 70; amended Nov. 4, 1975, Pub. L. 94-124, §2, 89 Stat. 677; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

#### AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator”.

1975—Pub. L. 94-124 substituted “of which the holder had actual knowledge at the time it became a holder” for “of which the holder has actual knowledge”.

#### EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 939 of this title.

### § 939. Loan terms and conditions

#### (a) In general

Loans made from or insured through the fund shall be for the same purposes and on the same terms and conditions as are provided for loans in subchapters I and II of this chapter except as otherwise provided in sections 933 to 938 inclusive. The preceding sentence shall not be construed to make section 948(b)(2) or 950b of this title applicable to this subchapter.

#### (b) Telephone loans under this subchapter

The term of any telephone loan made under this subchapter shall be determined by the borrower at the time the loan application is submitted.

(May 20, 1936, ch. 432, title III, §309, as added May 11, 1973, Pub. L. 93-32, §2, 87 Stat. 70; amended Nov. 28, 1990, Pub. L. 101-624, title XXIII, §2360, 104 Stat. 4042; Nov. 1, 1993, Pub. L. 103-129, §2(b)(2), 107 Stat. 1363.)

#### AMENDMENTS

1993—Subsec. (a). Pub. L. 103-129 inserted at end “The preceding sentence shall not be construed to make section 948(b)(2) or 950b of this title applicable to this subchapter.”

1990—Pub. L. 101-624 designated existing provisions as subsec. (a) and added subsec. (b).

#### EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

### § 940. Refinancing of rural development loans

At the request of the borrower, the Secretary is authorized and directed to refinance with loans which will be insured under this chapter at the interest rates provided in section 935 of this title any loans made for rural electric and telephone facilities under any provision of the Consolidated Farm and Rural Development Act [7 U.S.C. 1921 et seq.].

(May 20, 1936, ch. 432, title III, §310, as added May 11, 1973, Pub. L. 93-32, §2, 87 Stat. 70; amended Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

#### REFERENCES IN TEXT

The Consolidated Farm and Rural Development Act, referred to in text, is title III of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 307, as amended, which is classified principally to chapter 50 (§1921 et seq.) of this title. For complete classification of the Act to the Code, see Short Title note set out under section 1921 of this title and Tables.

#### AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator”.

#### EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

### § 940a. Privatization program

The Secretary shall establish a privatization demonstration program which shall permit borrowers to prepay loans made by the Federal Financing Bank and guaranteed under section 936 of this title by paying the outstanding principal balance due on the loans. No sums in addition to the payment of the outstanding principal balance due on the Federal Financing Bank loans may be charged as the result of such prepayment against the borrower, the fund, or the Secretary. Federal Financing Bank loans shall be refinanced using the existing section 936 loan guarantee, with private capital, in an amount not to exceed the outstanding principal amount prepaid: *Provided*, That such guarantee of private capital shall be 90% of the principal amount of the loan or any portion thereof plus accrued interest outstanding at any time during the maturity period of the loan and shall be fully transferable and assignable. Notwithstanding any other provision of law, borrowers may prepay Federal Financing Bank loans under this section, except that such borrowers shall be required to prepay all of their outstanding loans made or guaranteed under this chapter within one year of prepayment of the first loan. A direct or insured loan prepaid under this section shall be prepaid by the borrower at the lesser of the outstanding principal balance due on the loan or the loan's present value discounted from the face value at maturity at the rate set by the Secretary. A Rural Telephone Bank loan shall be prepaid by paying the outstanding principal balance on the loan. No guarantee or other financial assistance shall be available to the borrowers to refinance outstanding loans prepaid hereunder. In the case of an electric borrower prepaying under this section or otherwise prepaying a loan at less than the outstanding prin-

cipal balance due on the loan, after the date of prepayment, no loans, loan guarantees or other financial assistance shall be provided pursuant to this chapter to the borrower or its successors or for the purpose of financing the construction or operation of generating plants or bulk transmission lines for the purpose of furnishing electric energy in the area served on a retail or wholesale basis by such borrower. In the case of a telephone borrower prepaying under this section, or otherwise prepaying a loan at less than the outstanding principal balance due on the loan, after the date of prepayment, no loans, loan guarantees or other financial assistance shall be provided pursuant to this chapter to the borrower or its successors or for the purpose of furnishing or improving telephone service in the area served by such borrower. In determining the service area of electric borrowers, the Secretary shall make allowances and adjustments to avoid adversely affecting the eligibility of other borrowers for financial assistance under this chapter where such borrowers are currently providing electric supply services for retail loads in the same area and which are reasonably expected to continue providing electric supply services for retail loads in such areas. In the event that the borrower prepaying under this section shall be using a majority of its generating capacity to directly serve its retail consumers, other borrowers which are purchasing power from such borrower as of September 30, 1986, shall continue to remain eligible for financing under this chapter for needs in their service area. Nothing in this section shall prohibit a borrower which has prepaid pursuant to this section from participating in generation and transmission projects with borrowers which have not prepaid, so long as the borrower which has prepaid utilizes private capital financing without financial assistance under this chapter: *Provided further*, That nothing in this section shall prohibit short-term power purchases by borrowers which have prepaid under this section from borrowers which have not prepaid. The Secretary shall issue regulations to implement this section within 60 days.

(May 20, 1936, ch. 432, title III, §311, as added Oct. 18, 1986, Pub. L. 99-500, §101(m) [title VI, §623], 100 Stat. 1783-308, 1783-333, and Oct. 30, 1986, Pub. L. 99-591, §101(m) [title VI, §623], 100 Stat. 3341-308, 3341-333; amended Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(7), (13), 108 Stat. 3221.)

#### CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

#### AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing and “Secretary” for “Rural Electrification Administration” in second sentence.

#### APPLICABILITY OF SECTION LIMITED TO ALASKA

Section 115 of Pub. L. 99-591, Oct. 30, 1986, 100 Stat. 3341-352, provided in part that: “notwithstanding this or any other provision of this Act, Section 623 of the Treasury, Postal Service, and General Government Appropriations Act as contained in this Act [enacting this section] shall apply only to the rural electrification program in the State of Alaska.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 501.

### § 940b. Use of funds

A borrower of an insured or guaranteed electric loan under this chapter may, without restriction or prior approval of the Secretary, invest its own funds or make loans or guarantees, not in excess of 15 percent of its total utility plant.

(May 20, 1936, ch. 432, title III, §312, as added Dec. 22, 1987, Pub. L. 100-203, title I, §1402, 101 Stat. 1330-21; amended Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

#### AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator”.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 950aa of this title.

### § 940c. Cushion of credit payments program

#### (a) Establishment

##### (1) In general

The Secretary shall develop and promote a program to encourage borrowers to voluntarily make deposits into cushion of credit accounts established within the Rural Electrification and Telephone Revolving Fund.

##### (2) Interest

Amounts in each cushion of credit account shall accrue interest to the borrower at a rate of 5 percent per annum.

##### (3) Balance

A borrower may reduce the balance of its cushion of credit account only if the amount obtained from the reduction is used to make scheduled payments on loans made or guaranteed under this chapter.

#### (b) Uses of cushion of credit payments

##### (1) In general

##### (A) Cash balance

Cushion of credit payments shall be held in the Rural Electrification and Telephone Revolving Fund as a cash balance in the cushion of credit accounts of borrowers.

##### (B) Interest

All cash balance amounts (obtained from cushion of credit payments, loan payments, and other sources) held by the Fund shall bear interest to the Fund at a rate equal to the weighted average rate on outstanding certificates of beneficial ownership issued by the Fund.

##### (C) Credits

The amount of interest accrued on the cash balances shall be credited to the Fund as an offsetting reduction to the amount of interest paid by the Fund on its certificates of beneficial ownership.

#### (2) Rural economic development subaccount

##### (A) Maintenance of account

The Secretary shall maintain a subaccount within the Rural Electrification and Telephone Revolving Fund to which shall be

credited, on a monthly basis, a sum determined by multiplying the outstanding cushion of credit payments made after October 1, 1987, by the difference (converted to a monthly basis) between the average weighted interest rate paid on outstanding certificates of beneficial ownership issued by the Fund and the 5 percent rate of interest provided to borrowers on cushion of credit payments.

**(B) Grants**

The Secretary is authorized, from the interest differential sums credited this subaccount and from any other funds made available thereto, to provide grants or zero interest loans to borrowers under this chapter for the purpose of promoting rural economic development and job creation projects, including funding for project feasibility studies, start-up costs, incubator projects, and other reasonable expenses for the purpose of fostering rural development.

**(C) Repayments**

In the case of zero interest loans, the Secretary shall establish such reasonable repayment terms as will ensure borrower participation.

**(D) Proceeds**

All proceeds from the repayment of such loans shall be returned to the subaccount.

**(E) Number of grants**

Such loans and grants shall be made during each fiscal year to the full extent of the amounts held by the rural economic development subaccount, subject only to limitations as may be from time-to-time imposed by law.

(May 20, 1936, ch. 432, title III, §313, as added Dec. 22, 1987, Pub. L. 100-203, title I, §1403, 101 Stat. 1330-21; amended Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Subsecs. (a)(1), (b)(2)(A) to (C). Pub. L. 103-354 substituted “Secretary” for “Administrator”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 912, 6944 of this title.

**§ 940d. Limitations on authorization of appropriations**

**(a) “Adjustment percentage” defined**

As used in this section, the term “adjustment percentage” means, with respect to a fiscal year, the percentage (if any) by which—

(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of title 26) for the 1-year period ending on July 31 of the immediately preceding fiscal year; exceeds

(2) the average of the Consumer Price Index (as so defined) for the 1-year period ending on July 31, 1993.

**(b) Fiscal years 1994 through 1998**

In the case of each of fiscal years 1994 through 1998, there are authorized to be appropriated to the Secretary such sums as may be necessary for

the cost of loans in the following amounts, for the following purposes:

**(1) Electric hardship loans**

For loans under section 935(c)(1) of this title—

(A) for fiscal year 1994, \$125,000,000; and

(B) for each of fiscal years 1995 through 1998, \$125,000,000, increased by the adjustment percentage for the fiscal year.

**(2) Electric municipal rate loans**

For loans under section 935(c)(2) of this title—

(A) for fiscal year 1994, \$600,000,000; and

(B) for each of fiscal years 1995 through 1998, \$600,000,000, increased by the adjustment percentage for the fiscal year.

**(3) Telephone hardship loans**

For loans under section 935(d)(1) of this title—

(A) for fiscal year 1994, \$125,000,000; and

(B) for each of fiscal years 1995 through 1998, \$125,000,000, increased by the adjustment percentage for the fiscal year.

**(4) Telephone cost-of-money loans**

For loans under section 935(d)(2) of this title—

(A) for fiscal year 1994, \$198,000,000; and

(B) for each of fiscal years 1995 through 1998, \$198,000,000, increased by the adjustment percentage for the fiscal year.

**(c) Funding levels**

The Secretary shall make insured loans under this subchapter for the purposes, in the amounts, and for the periods of time specified in subsection (b) of this section, as provided in advance in appropriations Acts.

**(d) Availability of funds for insured loans**

Amounts made available for loans under section 935 of this title are authorized to remain available until expended.

(May 20, 1936, ch. 432, title III, §314, as added Nov. 5, 1990, Pub. L. 101-508, title I, §1201, 104 Stat. 1388-7; amended Nov. 1, 1993, Pub. L. 103-129, §2(b)(1), 107 Stat. 1362; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Subsecs. (b), (c). Pub. L. 103-354 substituted “Secretary” for “Administrator”.

1993—Pub. L. 103-129 amended section generally, substituting provisions authorizing appropriations for the cost of electric hardship loans, electric municipal rate loans, telephone hardship loans, and telephone cost-of-money loans under section 935 of this title for fiscal years 1994 through 1998 for provisions directing the Administrator to make insured loans from the Rural Electrification and Telephone Revolving Fund under section 931 of this title for fiscal years 1991 through 1995, to reduce the amounts of such loans to obtain funds to guarantee the loans, and to guarantee the loans upon request of the borrower at 90 percent of the principal and interest.

EFFECTIVE DATE

Section effective Nov. 29, 1990, see section 1301 of Pub. L. 101-508, set out as an Effective Date of 1990 Amendment note under section 511r of this title.

## SUBCHAPTER IV—RURAL TELEPHONE BANK

### SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 931, 932, 935 of this title.

### § 941. Telephone Bank

#### (a) Establishment

There is hereby established a body corporate to be known as the Rural Telephone Bank (hereinafter called the telephone bank).

#### (b) General purposes

The general purposes of the telephone bank shall be to obtain an adequate supply of supplemental funds to the extent feasible from non-Federal sources, to utilize said funds in the making of loans under section 948 of this title, and to conduct its operations to the extent practicable on a self-sustaining basis.

#### (c) Status; payments in lieu of property taxes

The telephone bank shall be deemed to be an instrumentality of the United States, and shall, for the purposes of jurisdiction and venue, be deemed a citizen and resident of the District of Columbia. The telephone bank is authorized to make payments to State, territorial, and local governments in lieu of property taxes upon real property and tangible personal property which was subject to State, territorial, and local taxation before acquisition by the telephone bank. Such payment may be in the amounts, at the times, and upon such terms as the telephone bank deems appropriate but the telephone bank shall be guided by the policy of making payments not in excess of the taxes which would have been payable upon such property in the condition in which it was acquired.

(May 20, 1936, ch. 432, title IV, § 401, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 30.)

#### EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

### § 942. General powers

To carry out the specific powers herein authorized, the telephone bank shall have power to (a) adopt, alter, and use a corporate seal; (b) sue and be sued in its corporate name; (c) make contracts, leases, and cooperative agreements, or enter into other transactions as may be necessary in the conduct of its business, and on such terms as it may deem appropriate; (d) acquire, in any lawful manner, hold, maintain, use, and dispose of property: *Provided*, That the telephone bank may only acquire property needed in the conduct of its banking operations or pledged or mortgaged to secure loans made hereunder or in temporary operation or maintenance thereof: *Provided further*, That any such pledged or mortgaged property so acquired shall be disposed of as promptly as is consistent with prudent liquidation practices, but in no event later than five years after such acquisition; (e) accept gifts or donations of services or of property in aid of any of the purposes herein authorized; (f) appoint such officers, attorneys, agents, and employees, vest them with such powers and duties,

fix and pay such compensation to them for their services as the telephone bank may determine; (g) determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid; (h) execute, in accordance with its by-laws, all instruments necessary or appropriate in the exercise of any of its powers; (i) collect or compromise all obligations assigned to or held by it and all legal or equitable rights accruing to it in connection with the payment of such obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and (j) exercise all such other powers as shall be necessary or incidental to carrying out its functions under this subchapter.

(May 20, 1936, ch. 432, title IV, § 402, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 30.)

#### EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

### § 943. Special provisions governing telephone bank as a Federal agency until conversion of ownership, control, and operation

Until the ownership, control, and operation of the telephone bank is converted as provided in section 950(a) of this title and not thereafter—

#### (a) Supervision and direction of Secretary of Agriculture; free postage and priority of debts restrictions

the telephone bank shall be an agency of the United States and shall be subject to the supervision and direction of the Secretary of Agriculture (hereinafter called the Secretary): *Provided, however*, That the telephone bank shall at no time be entitled to transmission of its mail free of postage, nor shall it have the priority of the United States in the payment of debts out of bankrupt, insolvent, and decedents' estates;

#### (b) Use of facilities and services of employees of Secretary of Agriculture

in order to perform its responsibilities under this subchapter, the telephone bank may partially or jointly utilize the facilities and the services of employees of the Secretary, without cost to the telephone bank;

#### (c) Wholly owned Government corporation

the telephone bank shall be subject to the provisions of chapter 91 of title 31, in the same manner and to the same extent as if it were included in the definition of "wholly owned Government corporation" as set forth in section 9101 of title 31;

#### (d) Appointment and compensation of personnel

the telephone bank may without regard to the civil service<sup>1</sup> classification laws appoint and fix the compensation of such officers and employees of the telephone bank as it may deem necessary;

<sup>1</sup> So in original. The word "and" probably should appear after "civil service".

**(e) Tort claims and litigation**

the telephone bank shall be subject to the provisions of sections 517, 519, and 2679 of title 28.

(May 20, 1936, ch. 432, title IV, §403, as added May 7, 1971, Pub. L. 92-12, §2, 85 Stat. 31; amended Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(9), 108 Stat. 3221.)

## REFERENCES IN TEXT

The civil service classification laws, referred to in subsec. (d), probably should refer to civil service and classification laws. The civil service laws are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5. The classification laws are set forth in chapter 51 and subchapter III of chapter 53 of Title 5.

## CODIFICATION

In subsec. (c), “chapter 91 of title 31” and “section 9101 of title 31” substituted for “the Government Corporation Control Act, as amended (31 U.S.C. 841 et seq.)” and “section 101 of said Act (31 U.S.C. 846)”, respectively, on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

## AMENDMENTS

1994—Subsec. (b). Pub. L. 103-354 substituted “Secretary” for “Rural Electrification Administration or of any other agency of the Department of Agriculture”.

## EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

**§ 944. Governor of telephone bank; functions, powers, and duties**

Subject to the provisions of section 950 of this title, the Secretary shall designate an official of the Department of Agriculture who shall serve as the chief executive officer of the telephone bank (herein called the Governor of the telephone bank). Except as to matters specifically reserved to the Telephone Bank Board in this subchapter, the Governor of the telephone bank shall exercise and perform all functions, powers, and duties of the telephone bank.

(May 20, 1936, ch. 432, title IV, §404, as added May 7, 1971, Pub. L. 92-12, §2, 85 Stat. 31; amended Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(10), 108 Stat. 3221.)

## AMENDMENTS

1994—Pub. L. 103-354 substituted “the Secretary shall designate an official of the Department of Agriculture who” for “the Administrator of the Rural Electrification Administration”.

## EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

**§ 944a. Publication of rural telephone bank policies and regulations**

Notwithstanding the exemption contained in section 553(a)(2) of title 5, the Governor of the telephone bank shall cause to be published in the Federal Register, in accordance with section 553 of title 5, all rules, regulations, bulletins, and other written policy standards governing the operation of the telephone bank's programs

relating to public property, loans, grants, benefits, or contracts. After September 30, 1988, the telephone bank may not deny a loan or advance to, or take any other adverse action against, any applicant or borrower for any reason which is based upon a rule, regulation, bulletin, or other written policy standard which has not been published pursuant to such section.

(Pub. L. 100-203, title I, §1414, Dec. 22, 1987, 101 Stat. 1330-27.)

## CODIFICATION

Section was enacted as part of the Agricultural Reconciliation Act of 1987 and as part of the Omnibus Budget Reconciliation Act of 1987, and not as part of the Rural Electrification Act of 1936 which comprises this chapter.

**§ 945. Board of directors****(a) In general**

The management of the telephone bank, within the limitations prescribed by law, shall be vested in a board of directors (in this subchapter referred to as the “Telephone Bank Board”).

**(b) Membership**

The Telephone Bank Board shall consist of thirteen individuals, as follows:

**(1) Presidential appointees**

The President shall appoint seven individuals to serve on the Telephone Bank Board who shall serve at the pleasure of the President—

(A) five of whom shall be officers or employees of the Department of Agriculture and not officers or employees of the Secretary; and

(B) two of whom shall be from the general public and not officers or employees of the Federal Government.

**(2) Cooperative members**

The cooperative-type entities, and organizations controlled by such entities, that hold class B or class C stock shall elect three individuals to serve on the Telephone Bank Board for a term of two years, by a plurality vote of the stockholders voting in the election.

**(3) Commercial members**

The commercial-type entities, and the organizations controlled by such entities, that hold class B or class C stock shall elect three individuals to serve on the Telephone Bank Board for a term of two years, by a plurality vote of the stockholders voting in the election.

**(c) Elections****(1) Validity**

An election under paragraph (2) or (3) of subsection (b) of this section shall not be considered valid unless a majority of the stockholders eligible to vote in the election have voted in the election.

**(2) Balloting**

Balloting in an election under paragraph (2) or (3) of subsection (b) of this section shall be conducted by mail pursuant to the procedures authorized in the bylaws of the telephone bank.

**(3) No cumulative voting**

Cumulative voting shall not be permitted in any election under paragraph (2) or (3) of subsection (b) of this section.

**(d) Compensation****(1) In general**

Except as provided in paragraph (2), each member of the Telephone Bank Board shall receive \$100 per day for each day or part thereof, not to exceed fifty days per year, spent in the performance of their official duties, and shall be reimbursed for travel and other expenses in such manner and subject to such limitations as the Telephone Bank Board may prescribe.

**(2) Exceptions**

The five members of the Telephone Bank Board appointed under subsection (b)(1)(A) of this section shall not receive compensation by reason of their service on the Telephone Bank Board.

**(e) Succession**

A member of the Telephone Bank Board may serve after the expiration of the term of office of such member until the successor for such member has taken office.

**(f) Chairperson**

The members of the Telephone Bank Board shall elect one of such members to be the Chairperson of the Board, in accordance with the bylaws of the telephone bank. The Chairperson shall preside at all meetings of the Board and may vote on a matter before the Board unless the vote would result in a tie vote on the matter.

**(g) Bylaws**

The Telephone Bank Board shall prescribe bylaws, not inconsistent with law, regulating the manner in which the telephone bank's business shall be conducted, its directors and officers elected, its stock issued, held, and disposed of, its property transferred, its bylaws amended, and the powers and privileges granted to it by law exercised and enjoyed.

**(h) Meetings**

The Telephone Bank Board shall meet at such times and places as it may fix and determine, but shall hold at least four regularly scheduled meetings a year, and special meetings may be held on call in the manner specified in the bylaws of the telephone bank.

**(i) Annual report**

The Telephone Bank Board shall make an annual report to the Secretary for transmittal to the Congress on the administration of this subchapter and any other matters relating to the effectuation of the policies of this subchapter, including recommendations for legislation.

**(j) Open meetings**

For purposes of section 552b of title 5, the Telephone Bank Board shall be treated as an agency within the meaning of subsection (a)(1) of such section.

(May 20, 1936, ch. 432, title IV, §405, as added May 7, 1971, Pub. L. 92-12, §2, 85 Stat. 32; amended May 11, 1973, Pub. L. 93-32, §4, 87 Stat. 70;

Nov. 28, 1990, Pub. L. 101-624, title XXIII, §2363(a), (b)(1), (c), 104 Stat. 4042-4044; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(7), 108 Stat. 3221.)

## AMENDMENTS

1994—Subsec. (b)(1)(A). Pub. L. 103-354 substituted “Secretary” for “Rural Electrification Administration”.

1990—Pub. L. 101-624, §2363(a), substituted “Board of directors” for “Telephone Bank Board” in section catchline.

Subsecs. (a) to (f). Pub. L. 101-624, §2363(a), struck out subsecs. (a) to (f) and inserted new subsecs. (a) to (f): in subsec. (a) struck out provisions relating to size of board, in subsec. (b) substituted provisions relating to size of board and to appointment and election of all board members for provisions naming Administrator of Rural Electrification Administration and Governor of Farm Credit Administration to board, and authorizing presidential appointment of 5 other members, in subsec. (c) substituted provisions relating to election of 6 cooperative and commercial members for provisions authorizing presidential appointment of initial 6 cooperative and commercial members, in subsec. (d) substituted provisions relating to compensation for provisions relating to interim election of 6 cooperative and commercial members, in subsec. (e) substituted provisions relating to succession for provisions relating to regular election of 6 cooperative and commercial members, and in subsec. (f) substituted provisions relating to chairperson for provisions relating to service after expiration of term, compensation and expenses.

Subsecs. (g) to (i). Pub. L. 101-624, §2363(b)(1), inserted headings.

Subsec. (j). Pub. L. 101-624, §2363(c), added subsec. (j).

1973—Subsec. (e). Pub. L. 93-32 substituted provisions directing that the cooperative-type entities and organizations holding class B and class C stock, voting as a separate class, elect three directors to represent their class by a majority of the stockholders voting in such class and that the commercial-type entities and organizations holding class B and class C stock, voting as a separate class, elect three directors to represent their class by a majority of the stockholders voting in such class, for provisions that three directors be elected from among the directors, managers, and employees of cooperative-type entities and organizations controlled by such entities holding class B or class C stock and that three directors be elected from among the directors, managers, and employees of commercial-type entities and organizations controlled by such entities holding class B or class C stock, and inserted provisions prohibiting cumulative voting.

## EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-32 effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as an Effective Date note under section 930 of this title.

## EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 950 of this title.

**§ 946. Capitalization****(a) Federal and borrower subscriptions; Federal limitation; report to President, transmittal to Congress; net collection proceeds**

The telephone bank's capital shall consist of capital subscribed by the United States, by borrowers from the telephone bank, by corporations and public bodies eligible to become borrowers from the telephone bank, and by organizations



controlled by such borrowers, corporations, and public bodies. Beginning with the fiscal year 1971 and for each fiscal year thereafter but not later than fiscal year 1991, the United States shall furnish capital for the purchase of class A stock and there are hereby authorized to be appropriated such amounts, not to exceed \$30,000,000 annually, for such purchase until such class A stock shall equal \$600,000,000: *Provided*, That on or before July 1, 1975, the Secretary shall make a report to the President for transmittal to the Congress on the status of capitalization of the telephone bank by the United States with appropriate recommendations. As used in this section and section 931 of this title, the term "net collection proceeds" shall be deemed to mean payments from and after July 1, 1969, of principal and interest on loans heretofore or hereafter made under section 922 of this title, less an amount representing interest payable to the Secretary of the Treasury on loans to the Secretary for telephone purposes pursuant to section 903(a) of this title.

**(b) Stock classification; voting stock; one vote rule**

The capital stock of the telephone bank shall consist of three classes, class A, class B, and class C, the rights, powers, privileges, and preferences of the separate classes to be as specified, not inconsistent with law, in the bylaws of the telephone bank. Class B and class C stock shall be voting stock, but no holder of said stock shall be entitled to more than one vote, nor shall class B and class C stockholders, regardless of their number, which are owned or controlled by the same person, group of persons, firm, association, or corporation, be entitled in any event to more than one vote.

**(c) Class A stock; issuance to Secretary of Agriculture and redemption; cumulative return**

Class A stock shall be issued only to the Secretary on behalf of the United States in exchange for capital furnished to the telephone bank pursuant to subsection (a) of this section, and such class A stock shall be redeemed and retired by the telephone bank as soon as practicable after September 30, 1995, but not to the extent that the Telephone Bank Board determines that such retirement will impair the operations of the telephone bank: *Provided*, That the minimum amount of class A stock that shall be retired each year after said date shall equal the amount of class B stock sold by the telephone bank during such year. Class A stock shall be entitled to a return, payable from income, at the rate of 2 per centum per annum on the amounts of said class A stock actually paid into the telephone bank. Such return shall be cumulative and shall be payable annually into miscellaneous receipts of the Treasury.

**(d) Class B stock; borrowers as holders; dividend prohibition; patronage refunds**

Class B stock shall be held only by recipients of loans under section 948 of this title. Borrowers receiving loan funds pursuant to section 948(a)(1) or (2) of this title shall be required to invest in class B stock 5 per centum of the amount of loan funds so provided, by paying an amount equal to 5 per centum of the amount of

each loan advance, at the time of such advance. No dividends shall be payable on class B stock. All holders of class B shall be entitled to patronage refunds in class B stock under terms and conditions to be specified in the bylaws of the telephone bank.

**(e) Class C stock; borrowers as purchasers; dividends**

Class C stock shall be available for purchase and shall be held only by borrowers, or by corporations and public bodies eligible to borrow under section 948 of this title, or by organizations controlled by such borrowers, corporations and public bodies, and shall be entitled to dividends in the manner specified in the bylaws of the telephone bank. Such dividends shall be payable only from income and, until all class A stock is retired, shall not exceed the current average rate payable on its telephone debentures.

**(f) Special fund equivalents**

If a firm, association, corporation, or public body is not authorized under the laws of the jurisdiction in which it is organized to acquire stock of the telephone bank, the telephone bank shall, in lieu thereof, permit such organization to pay into a special fund of the telephone bank a sum equivalent to the amount of stock to be purchased. Each reference in this subchapter to capital stock, or to class B, or class C stock, shall include also the special fund equivalents of such stock, and to the extent permitted under the laws of the jurisdiction in which such organization is organized, a holder of special fund equivalents of class B, or class C stock, shall have the same rights and status as a holder of class B or class C stock, respectively. The rights and obligations of the telephone bank in respect of such special fund equivalent shall be identical to its rights and obligations in respect of class B or class C stock, respectively.

**(g) Patronage refunds from remaining earnings after provision for operating expenses, reserves for losses, payments in lieu of taxes, and returns on class A and C stock**

After payment of all operating expenses of the telephone bank, including interest on its telephone debentures, setting aside appropriate funds for the reserve for loan losses, and making payments in lieu of taxes, and returns on class A stock as provided in subsection (c) of this section, and on class C stock, the Telephone Bank Board shall annually set aside the remaining earnings of the telephone bank for patronage refunds in accordance with the bylaws of the telephone bank. The telephone bank may not establish any reserve other than the reserves referred to in this subsection and in subsection (h) of this section.

**(h) Reserve for losses due to interest rate fluctuations**

There is hereby established in the telephone bank a reserve for losses due to interest rate fluctuations. Within 30 days after December 22, 1987, the Governor of the telephone bank shall transfer to the reserve for losses due to interest rate fluctuations all amounts in the reserve for contingencies as of December 22, 1987. All amounts so transferred shall not be transferred,

directly or indirectly, to the reserve for contingencies. Amounts in the reserve for interest rate fluctuations may be expended only to cover operating losses of the telephone bank (other than losses attributable to loan defaults) and only after taking into consideration any recommendations made by the General Accounting Office under section 1413(b) of the Omnibus Budget Reconciliation Act of 1987.

**(i) Investment of RTB Equity Fund**

(i) The Governor of the telephone bank may invest in obligations of the United States the amounts in the account in the Treasury of the United States numbered 12X8139 (known as the “RTB Equity Fund”).

(May 20, 1936, ch. 432, title IV, § 406, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 33; amended May 11, 1973, Pub. L. 93-32, § 5, 87 Stat. 70; Apr. 21, 1976, Pub. L. 94-273, § 2(2), 90 Stat. 375; Dec. 22, 1981, Pub. L. 97-98, title XVI, § 1607, 95 Stat. 1347; Dec. 22, 1987, Pub. L. 100-203, title I, § 1413(a), (c), 101 Stat. 1330-26; Nov. 28, 1990, Pub. L. 101-624, title XXIII, §§ 2364, 2367(a), 104 Stat. 4044; Nov. 1, 1993, Pub. L. 103-129, § 2(c)(9), 107 Stat. 1365; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(11), (13), 108 Stat. 3221.)

**REFERENCES IN TEXT**

Section 1413(b) of the Omnibus Budget Reconciliation Act of 1987, referred to in subsec. (h), is section 1413(b) of Pub. L. 100-203, title I, Dec. 22, 1987, 101 Stat. 1330-26, which is not classified to the Code, and which mandated a study by the General Accounting Office of the operations of the telephone bank and directed that GAO report recommendations to Congress within 180 days of Dec. 22, 1987.

**AMENDMENTS**

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” in last sentence of subsec. (a) and “Secretary” for “Administrator of the Rural Electrification Administration” in subsec. (c).

1993—Subsec. (i). Pub. L. 103-129 added subsec. (i).

1990—Subsec. (d). Pub. L. 101-624, § 2364, inserted before period at end of second sentence “, by paying an amount equal to 5 per centum of the amount of each loan advance, at the time of such advance”.

Subsec. (h). Pub. L. 101-624, § 2367(a), inserted after second sentence “All amounts so transferred shall not be transferred, directly or indirectly, to the reserve for contingencies.” and substituted “Omnibus Budget Reconciliation” for “Rural Telephone Bank Borrowers Fairness”.

1987—Subsec. (g). Pub. L. 100-203, § 1413(c), substituted “the reserve for loan losses” for “reserves for losses”, and inserted at end “The telephone bank may not establish any reserve other than the reserves referred to in this subsection and in subsection (h) of this section.”

Subsec. (h). Pub. L. 100-203, § 1413(a), added subsec. (h).

1981—Subsec. (a). Pub. L. 97-98, § 1607(1), inserted “but not later than fiscal year 1991” after “thereafter,” and substituted “\$600,000” for “\$300,000”.

Subsec. (c). Pub. L. 97-98, § 1607(2), substituted “September 30, 1995” for “September 30, 1985”, and struck out “and after the amount of class A and class B stock totals \$400,000,000” after “said date”.

1976—Subsec. (c). Pub. L. 94-273 substituted “September” for “June”.

1973—Subsec. (a). Pub. L. 93-92 struck out “from net collection proceeds in the rural telephone account created under subchapter III of this chapter” after “appropriated”.

**EFFECTIVE DATE OF 1990 AMENDMENT**

Section 2368 of Pub. L. 101-624 provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle [subtitle F (§§ 2351-2368) of title XXIII of Pub. L. 101-624, enacting sections 918 and 925 to 928 of this title, amending this section and sections 924, 932, 935, 936, 939, 945, 948, and 950 of this title and enacting provisions set out as notes under section 901 of this title] shall take effect on the date of enactment of this Act [Nov. 28, 1990].

“(b) TECHNICAL AMENDMENTS.—The amendments made by section 2367 [amending this section and section 948 of this title] shall take effect as if such amendments had been included in chapter 2 [§§ 1411-1414] of subtitle D of title I of the Omnibus Budget Reconciliation Act of 1987 [Pub. L. 100-203] on the date of enactment of such chapter [Dec. 22, 1987].”

**EFFECTIVE DATE OF 1981 AMENDMENT**

Amendment by Pub. L. 97-98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97-98, set out as an Effective Date note under section 4301 of this title.

**EFFECTIVE DATE OF 1973 AMENDMENT**

Amendment by Pub. L. 93-32 effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as an Effective Date note under section 930 of this title.

**EFFECTIVE DATE**

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 931, 948, 950 of this title.

**§ 947. Borrowing power; telephone debentures; issuance; interest rates; terms and conditions; ratio to paid-in capital and retained earnings; investments in debentures; debentures as security; purchase and sale of debentures by the Secretary of the Treasury; treatment as public debt transactions of the United States; exclusion of transactions from budget totals**

(a) The telephone bank is authorized to obtain funds through the public or private sale of its bonds, debentures, notes, and other evidences of indebtedness (herein collectively called telephone debentures). Telephone debentures shall be issued at such times, bear interest at such rates, and contain such other terms and conditions as the Telephone Bank Board shall determine: *Provided, however,* That the amount of the telephone debentures which may be outstanding at any one time pursuant to this section shall not exceed twenty times the paid-in capital and retained earnings of the telephone bank. Telephone debentures shall not be exempt, either as to principal or interest, from any taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State or local taxing authority. Telephone debentures shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority and control of the United States or any officer or officers thereof.

(b) The Telephone Bank is also authorized to issue telephone debentures to the Secretary of the Treasury, and the Secretary of the Treasury may in his discretion purchase any such debentures, and for such purpose the Secretary of the Treasury is authorized to use as a public debt

transaction the proceeds of the sale of any securities hereafter issued under chapter 31 of title 31, as now or hereafter in force, and the purposes for which securities may be issued under chapter 31 of title 31 as now or hereafter in force are extended to include such purchases. Each purchase of telephone debentures by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the telephone debentures acquired by him under this subsection. All purchases and sales by the Secretary of the Treasury of such debentures under this subsection shall be treated as public debt transactions of the United States.

(c) Purchases and resales by the Secretary of the Treasury as authorized in subsection (b) of this section shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(May 20, 1936, ch. 432, title IV, § 407, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 34; amended June 30, 1972, Pub. L. 92-324, § 2, 86 Stat. 390; May 11, 1973, Pub. L. 93-32, §§ 6, 7, 87 Stat. 70.)

#### CODIFICATION

In subsec. (b), "chapter 31 of title 31" substituted for "the Second Liberty Bond Act" on authority of Pub. L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

#### AMENDMENTS

1973—Subsec. (a). Pub. L. 93-32, § 6, increased from eight times the paid-in capital and retained earnings of the telephone bank to twenty times the paid-in capital and retained earnings of the telephone bank the amount of telephone debentures which may be outstanding at any one time and struck out provisions directing the insertion by the telephone bank in all its telephone debentures of appropriate language indicating that such telephone debentures together with interest thereon are not guaranteed by the United States and do not constitute a debt or obligation of the United States or of any agency or instrumentality thereof other than the telephone bank.

Subsec. (c). Pub. L. 93-32, § 7, added subsec. (c).

1972—Pub. L. 92-324 designated existing provisions as subsec. (a) and added subsec. (b).

#### EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-32 effective May 11, 1973, see section 12 of Pub. L. 92-32, set out as an Effective Date note under section 930 of this title.

#### EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-324 effective June 30, 1972, see section 4 of Pub. L. 92-324, set out as an Effective Date note under section 921b of this title.

#### EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 948 of this title.

## § 948. Lending power

### (a) Loans for prescribed purposes; requisite conditions

The Governor of the telephone bank shall make loans on behalf of the telephone bank, to the extent that there are qualifying applications therefor, subject only to limitations as to amounts authorized for loans and advances as may be imposed by law enacted by the Congress of the United States for loans to be made in any one year, and in conformance with policies approved by the Telephone Bank Board, to corporations and public bodies which have received a loan or loan commitment pursuant to section 922 of this title, or which have been certified by the Secretary to be eligible for such a loan or loan commitment, (1) for the same purposes and under the same limitations for which loans may be made under section 922 of this title, (2) for the acquisition, purchase, and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and customer premise equipment) related to the furnishing, improvement, or extension of rural telecommunications service, and (3) for the purchase of class B stock required to be purchased under section 946(d) of this title but not for the purchase of class C stock, subject, as to the purposes set forth in (2) hereof, to the following provisos: That in the case of any such loan for the acquisition of telephone lines, facilities, or systems, the acquisition shall be approved by the Secretary, the location and character thereof shall be such as to improve the efficiency, effectiveness, or financial stability of the telephone system of the borrower, and in respect of exchange facilities for local services, the size of each acquisition shall not be greater than the borrower's existing system at the time it receives its first loan from the telephone bank, taking into account the number of subscribers served, miles of line, and plant investment. Loans and advances made under this section shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

### (b) Terms and conditions of loans; restrictions on loans

Loans under this section shall be on such terms and conditions as the Governor of the telephone bank shall determine, subject, however, to the following restrictions:

#### (1) Amortization period

All loans made under this section shall be fully amortized over a period not to exceed fifty years.

#### (2) Preference in loans; election of loans for telephone system with certain subscriber density per mile

Funds to be loaned under this chapter to any borrower shall be loaned under this section in preference to section 922 of this title if the borrower is eligible for such a loan and funds are available therefor. Notwithstanding the foregoing or any other provision of law, all

loans made pursuant to this chapter for facilities for telephone systems with an average subscriber density of three or fewer per mile shall be made under section 922 of this title; but this provision shall not preclude the making of such loans from the telephone bank at the election of the borrower.

**(3) Interest rate**

(A) Loans under this section shall bear interest at the "cost of money rate". The cost of money rate is defined as the average cost of moneys to the telephone bank as determined by the Governor, but not less than 5 per centum per annum.

(B) On and after December 22, 1987, advances made on or after December 22, 1987, under loan commitments made on or after October 1, 1987, shall bear interest at the rate determined under subparagraph (C), but in no event at a rate that is less than 5 percent per annum.

(C) The rate determined under this subparagraph shall be—

(i) for the period beginning on the date the advance is made and ending at the close of the fiscal year in which the advance is made, the average yield (on the date of the advance) on outstanding marketable obligations of the United States having a final maturity comparable to the final maturity of the advance; and

(ii) after the fiscal year in which the advance is made, the cost of money rate for such fiscal year, as determined under subparagraph (D).

(D) Within 30 days after the end of each fiscal year, the Governor shall determine to the nearest 0.01 percent the cost of money rate for the fiscal year, by calculating the sum of the results of the following calculations:

(i) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class A stock, multiplied by the rate of return payable by the telephone bank during the fiscal year, as specified in section 946(c) of this title, to holders of class A stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

(ii) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class B stock, multiplied by the rate at which dividends are payable by the telephone bank during the fiscal year, as specified in section 946(d) of this title, to holders of class B stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year. For purposes of the calculation under this subparagraph, such rate shall be zero.

(iii) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class C stock, multiplied by the rate at which dividends are payable by the telephone bank during the fiscal year, under section 946(e) of this title, to holders of class C stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

(iv)(I) The sum of the results of the calculations described in subclause (II).

(II) The amounts received by the telephone bank during the fiscal year from each issue of telephone debentures and other obligations of the telephone bank, multiplied, respectively, by the rates at which interest is payable during the fiscal year by the telephone bank to holders of each issue, each of which products is divided, respectively, by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

(v)(I) The amount by which the aggregate of the amounts advanced by the telephone bank during the fiscal year exceeds the aggregate of the amounts received by the telephone bank from the issuance of class A stock, class B stock, class C stock, and telephone debentures and other obligations of the telephone bank during the fiscal year, multiplied by the historic cost of money rate as of the close of the fiscal year immediately preceding the fiscal year, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

(II) For purposes of this clause, the term "historic cost of money rate", with respect to the close of a preceding fiscal year, means the sum of the results of the following calculations: The amounts advanced by the telephone bank in each fiscal year during the period beginning with fiscal year 1974 and ending with the preceding fiscal year, multiplied, respectively, by the cost of money rate for the fiscal year (as set forth in the table in subparagraph (E)) for fiscal years 1974 through 1987, and as determined by the Governor under this subparagraph for fiscal years after fiscal year 1987), each of which products is divided, respectively, by the aggregate of the amounts advanced by the telephone bank during the period.

(E) For purposes of subparagraph (D)(II), the cost of money rate for the fiscal years in which each advance was made shall be as set forth in the following table:

<b>The cost of money For advances made in— rate shall be—</b>	
Fiscal year 1974.....	5.01 percent
Fiscal year 1975.....	5.85 percent
Fiscal year 1976.....	5.33 percent
Fiscal year 1977.....	5.00 percent
Fiscal year 1978.....	5.87 percent
Fiscal year 1979.....	5.93 percent
Fiscal year 1980.....	8.10 percent
Fiscal year 1981.....	9.46 percent
Fiscal year 1982.....	8.39 percent
Fiscal year 1983.....	6.99 percent
Fiscal year 1984.....	6.55 percent
Fiscal year 1985.....	5.00 percent
Fiscal year 1986.....	5.00 percent
Fiscal year 1987.....	5.00 percent.

For purposes of this paragraph, the term "fiscal year" means the 12-month period ending on September 30 of the designated year.

(F)(i) Notwithstanding subparagraph (B), if a borrower holds a commitment for a loan under this section made on or after October 1, 1987, and before December 22, 1987, part or all of the proceeds of which have not been advanced as

of December 22, 1987, the borrower may, until the later of the date the next advance under the loan commitment is made or 90 days after December 22, 1987, elect to have the interest rate specified in the loan commitment apply to the unadvanced portion of the loan in lieu of the rate which (but for this clause) would apply to the unadvanced portion under this paragraph. If any borrower makes an election under this clause with respect to a loan, the Governor shall adjust the interest rate which applies to the unadvanced portion of the loan accordingly.

(ii)(I) If the telephone bank, pursuant to section 947(b) of this title, issues telephone debentures on any date to refinance telephone debentures or other obligations of the telephone bank, the telephone bank shall, in addition to any interest rate reduction required by any other provision of this paragraph, for the period applicable to the advance, reduce the interest rate charged on each advance made under this section during the fiscal year in which the refinanced debentures or other obligations were originally issued by the amount applicable to the advance.

(II) For purposes of subclause (I), the term "the period applicable to the advance" means the period beginning on the issue date described in subclause (I) and ending on the earlier of the date the advance matures or is completely prepaid.

(III) For purposes of subclause (I), the term "the amount applicable to the advance" means an amount which fully reflects that percentage of the funds saved by the telephone bank as a result of the refinancing which is equal to the percentage representation of the advance in all advances described in subclause (I).

(IV) Within 60 days after any issue date described in subclause (I), the Governor shall amend the loan documentation for each advance described in subclause (I), as necessary, to reflect any interest rate reduction applicable to the advance by reason of this clause, and shall notify each affected borrower of the reduction.

(G) Within 30 days after the publication of any determination made under subparagraph (D), any affected borrower may obtain review of the determination, or any other equitable relief as may be determined appropriate, by the United States court of appeals for the judicial circuit in which the borrower does business by filing a written petition requesting the court to set aside or modify such determination. On receipt of such a petition, the clerk of the court shall transmit a copy of the petition to the Governor. On receipt of a copy of such a petition from the clerk of the court, the Governor shall file with the court the record on which the determination is based. The court shall have jurisdiction to affirm, set aside, or modify the determination.

(H) Within 5 days after determining the cost of money rate for a fiscal year, the Governor shall—

- (i) cause the determination to be published in the Federal Register in accordance with section 552 of title 5; and

- (ii) furnish a copy of the determination to the Comptroller General of the United States.

(I) The telephone bank shall not sell or otherwise dispose of any loan made under this section, except as provided in this paragraph.

#### **(4) Required qualifications of applicants**

The Governor of the telephone bank may make a loan under this section only to an applicant for the loan who meets the following requirements:

(A) The average number of subscribers per mile of line in the service area of the applicant is not more than 15, or the applicant is capable of producing net income or margins before interest of not less than 100 percent (but not more than 500 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

(B) The Secretary has approved, under section 935(d)(3) of this title, a telecommunications modernization plan for the State in which the applicant is located and, if the plan was developed by telephone borrowers under subchapter III of this chapter, the applicant is a participant in the plan.

#### **(5) Certificate of convenience and necessity required from State regulatory agency or statement of telephone bank's Governor of nonduplication of lines, facilities, or systems**

No loan shall be made in any State which now has or may hereafter have a State regulatory body having authority to regulate telephone service and to require certificates of convenience and necessity to the applicant unless such certificate from such agency is first obtained. In a State in which there is no such agency or regulatory body legally authorized to issue such certificates to the applicant, no loan shall be made under this section unless the Governor of the telephone bank shall determine (and set forth his reasons therefor in writing) that no duplication of lines, facilities, or systems, providing reasonably adequate services will result therefrom.

#### **(6) Definitions: telephone service; telephone lines, facilities, or systems**

As used in this section, the term telephone service shall have the meaning prescribed for this term in section 924(a) of this title, and the term telephone lines, facilities, or systems shall mean lines, facilities, or systems used in the rendition of such telephone service.

#### **(7) Sale or disposal of property, rights, or franchises prior to repayment of loan**

No borrower of funds under this section shall, without approval of the Governor of the telephone bank under rules established by the Telephone Bank Board, sell or dispose of its property, rights, or franchises, acquired under the provisions of this chapter, until any loan obtained from the telephone bank, including all interest and charges, shall have been repaid.

#### **(8) Prepayment without penalty**

(A) A borrower with a loan from the Rural Telephone Bank may prepay such loan (or any

part thereof) by paying the face amount thereof without being required to pay the prepayment penalty set forth in the note covering such loan, except for any prepayment penalty provided for in a loan agreement entered into before November 1, 1993.

(B) If a borrower prepays part or all of a loan made under this section, then, notwithstanding section 947(b) of this title, the Governor of the telephone bank shall—

(i) use the full amount of the prepayment to repay obligations of the telephone bank issued pursuant to section 947(b) of this title before October 1, 1991, to the extent any such obligations are outstanding; and

(ii) in repaying the obligations, first repay the advances bearing the greatest rate of interest.

**(9) Applications considered under this section and section 935(d)(2)**

On request of any applicant for a loan under this section during any fiscal year, the Governor of the telephone bank shall—

(A) consider the application to be for a loan under this section and a loan under section 935(d)(2) of this title; and

(B) if the applicant is eligible for a loan, make a loan to the applicant under this section in an amount equal to the amount that bears the same ratio to the total amount of loans for which the applicant is eligible under this section and under section 935(d)(2) of this title, as the amount made available for loans under this section for the fiscal year bears to the total amount made available for loans under this section and under section 935(d)(2) of this title for the fiscal year.

**(10) Applications considered under section 935(d)(2)**

On request of any applicant who is eligible for a loan under this section for which funds are not available, the applicant shall be considered to have applied for a loan under section 935(d)(2) of this title.

**(c) Payment schedule; adjustment; loan period**

The Governor of the telephone bank is authorized under rules established by the Telephone Bank Board to adjust, on an amortized basis, the schedule of payments of interest or principal of loans made under this section upon his determination that with such readjustment there is reasonable assurance of repayment: *Provided, however,* That no adjustment shall extend the period of such loans beyond fifty years.

**(d) Borrowers to determine amortization period for rural telephone bank loans**

(1) Except as provided in paragraph (2), the term of any loan made under this subchapter shall be determined by the borrower at the time the application for the loan is submitted.

(2) The term of any loan made under this subchapter shall not exceed the maximum term for which a loan may be made under section 904 of this title.

**(e) Interest on loans and advances**

Loans and advances made under this section on or after November 5, 1990, shall bear interest

at a rate determined under this section, taking into account all assets and liabilities of the telephone bank. This subsection shall not apply to loans obligated before November 1, 1993. Funds are not authorized to be appropriated to carry out this subsection until the funds are appropriated in advance to carry out this subsection.

(May 20, 1936, ch. 432, title IV, § 408, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 35; amended May 11, 1973, Pub. L. 93-32, §§ 8, 9, 87 Stat. 70, 71; Dec. 22, 1987, Pub. L. 100-203, title I, §§ 1411(b)(1), (c), 1412, 101 Stat. 1330-22, 1330-23, 1330-26; Nov. 28, 1990, Pub. L. 101-624, title XXIII, §§ 2365, 2366, 2367(b), 104 Stat. 4044; Nov. 1, 1993, Pub. L. 103-129, § 2(a)(2), 107 Stat. 1361; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221; Dec. 21, 1995, Pub. L. 104-66, title I, § 1011(y), 109 Stat. 711.)

**AMENDMENTS**

1995—Subsec. (b)(3)(I), (J). Pub. L. 104-66 redesignated subpar. (J) as (I) and struck out former subpar. (I) which read as follows: “The Comptroller General shall review, on an expedited basis, each determination a copy of which is received from the Governor and, within 15 days after the date of such receipt, furnish Congress a report on the accuracy of the determination.”

1994—Subsecs. (a), (b)(4)(B). Pub. L. 103-354 substituted “Secretary” for “Administrator”.

1993—Subsec. (a)(2). Pub. L. 103-129, § 2(a)(2)(A), substituted “acquisition, purchase, and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and customer premise equipment) related to the furnishing, improvement, or extension of rural telecommunications service” for “purposes of financing, or refinancing, the construction, improvement, expansion, acquisition, and operation of telephone lines, facilities, or systems, in order to improve the efficiency, effectiveness, or financial stability of borrowers financed under section 922 of this title and this section”.

Subsec. (b)(4). Pub. L. 103-129, § 2(a)(2)(B)(i), added par. (4) and struck out former par. (4) which related to adequacy of security and capacity for repayment of loans made under this section.

Subsec. (b)(8)(A). Pub. L. 103-129, § 2(a)(2)(B)(ii), designated existing provisions as subpar. (A), substituted “except for any prepayment penalty provided for in a loan agreement entered into before November 1, 1993” for “if such prepayment is not made later than September 30, 1988”, and added subpar. (B).

Subsec. (b)(9), (10). Pub. L. 103-129, § 2(a)(2)(B)(iii), added pars. (9) and (10).

Subsec. (e). Pub. L. 103-129, § 2(a)(2)(C), added subsec. (e).

1990—Subsec. (a). Pub. L. 101-624, § 2365, substituted “shall make loans on behalf of the telephone bank, to the extent that there are qualifying applications therefor, subject only to limitations as to amounts authorized for loans and advances as may be imposed by law enacted by the Congress of the United States for loans to be made in any one year, and” for “is authorized on behalf of the telephone bank to make loans.”

Subsec. (b)(3)(B). Pub. L. 101-624, § 2367(b)(1), substituted “the date of enactment of this subparagraph” for “the date of enactment of this paragraph” in the original text before “advances”, which was translated as “December 22, 1987”, requiring no change in text.

Subsec. (b)(3)(D)(ii). Pub. L. 101-624, § 2367(b)(2), inserted “For purposes of the calculation under this subparagraph, such rate shall be zero.”

Subsec. (b)(3)(E). Pub. L. 101-624, § 2367(b)(3), substituted “paragraph” for “subparagraph” after “of this”.

Subsec. (d). Pub. L. 101-624, § 2366, added subsec. (d).

1987—Subsec. (b)(3). Pub. L. 100-203, § 1411(c), designated existing provisions as subpar. (A) and added subpars. (B) to (J).

Subsec. (b)(4). Pub. L. 100-203, §1412, inserted at end “For purposes of determining the creditworthiness of a borrower for a loan under this paragraph, the Governor shall assume that the loan, if made, would bear interest at a rate equal to the average yield (on the date of the determination) on outstanding marketable obligations of the United States having a final maturity comparable to the final maturity of the loan.”

Subsec. (b)(8). Pub. L. 100-203, §1411(b)(1), added par. (8).

1973—Subsec. (a). Pub. L. 93-32, §8, inserted “or which have been certified by the Administrator to be eligible for such a loan or loan commitments,” preceding cl. (1) and inserted provision that loans and advances not be included in the totals of the budget of the United States Government and that such loans and advances be exempt from any general limitation imposed by statute expenditures and net lending (budget outlays) of the United States.

Subsec. (b)(3). Pub. L. 93-32, §9, substituted provisions for a “cost of money rate” of interest with a “not less than 5 per centum per annum” limit on such rate, for provisions for interest “at the highest rate which meets the requirements set forth in paragraph (4), consistent with the borrower’s ability to pay such interest rate and with achievement of the objectives of this chapter” with a “not less than 4 per centum per annum” limit on such rate.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 2367(b) of Pub. L. 101-624 effective as if included in chapter 2 [§§1411-1414] of subtitle D of title I of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203, see section 2368(b) of Pub. L. 101-624, set out as a note under section 946 of this title.

#### EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-32 effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as an Effective Date note under section 930 of this title.

#### EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

#### CONGRESSIONAL FINDINGS COVERING INTEREST RATES AND LOAN PREPAYMENTS

Section 1411(a) of Pub. L. 100-203 provided that: “Congress finds that—

“(1) overcharging of Rural Telephone Bank borrowers has resulted in \$179,000,000 in excess profits and has imperiled borrowers by raising costs to rate-payers;

“(2) borrowers will be able to seek redress under section 408(b)(3)(G) of the Rural Electrification Act of 1936 [subsec. (b)(3)(G) of this section], as added by subsection (c), or may leave the Rural Telephone Bank, but in no case may the Governor of the Bank issue regulations requiring any penalty from borrowers seeking to retire debt prior to maturity; and

“(3) any reduction in Federal Government expenditures in the operation of the Rural Telephone Bank, from borrowers’ conduct resulting from the implementation of the amendments made by subsections (b) and (c) [amending this section], should be included in all calculations of the budget of the United States Government, authorized under the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 [title I of Pub. L. 100-119, see Short Title of 1987 Amendment note set out under section 901 of Title 2, The Congress].”

#### PREPAYMENT REGULATIONS

Section 1411(b)(2) of Pub. L. 100-203 provided that: “The Governor of the Rural Telephone Bank shall issue regulations to carry out the amendment made by paragraph (1) [amending this section] within 30 days after the date of enactment of this Act [Dec. 22, 1987]. Such regulations shall implement the amendment made by

paragraph (1) without the addition of any restrictions not set forth in such amendment.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 927, 928, 935, 939, 941, 946, 950, 950b of this title.

#### § 949. Telephone bank receipts; availability for obligations and expenditures

Any receipts from the activities of the telephone bank shall be available for all obligations and expenditures of the telephone bank.

(May 20, 1936, ch. 432, title IV, §409, as added May 7, 1971, Pub. L. 92-12, §2, 85 Stat. 36.)

#### EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

#### § 950. Conversion of ownership, control, and operation of telephone bank

##### (a) Transfer of powers and authority from Secretary of Agriculture to Telephone Bank Board; cessation of Presidential appointees as Board members and reduction in number of Board members; status of telephone bank

Whenever fifty-one per centum of the maximum amount of class A stock issued to the United States and outstanding at any time after September 30, 1985, has been fully redeemed and retired pursuant to section 946(c) of this title—

(1) the powers and authority of the Governor of the telephone bank granted to the Secretary by this subchapter shall vest in the Telephone Bank Board, and may be exercised and performed through the Governor of the telephone bank, to be selected by the Telephone Bank Board, and through such other employees as the Telephone Bank Board shall designate;

(2) the five members of the Telephone Bank Board designated by the President pursuant to section 945(b)(1)(A) of this title shall cease to be members, and the number of Board members shall be accordingly reduced to eight unless other provision is thereafter made in the bylaws of the telephone bank;

(3) the telephone bank shall cease to be an agency of the United States, but shall continue in existence in perpetuity as an instrumentality of the United States and as a banking corporation with all of the powers and limitations conferred or imposed by this subchapter except such as shall have lapsed pursuant to the provisions of this subchapter.

##### (b) Restrictions of section 948(a)(2) of this title inapplicable to loans upon redemption and retirement of class A stock

When all class A stock has been fully redeemed and retired, loans made by the telephone bank shall not continue to be subject to the restrictions prescribed in the provisos to section 948(a)(2) of this title.

##### (c) Congressional review

Congress reserves the right to review the continued operations of the telephone bank after all class A stock has been fully redeemed and retired.

(May 20, 1936, ch. 432, title IV, §410, as added May 7, 1971, Pub. L. 92-12, §2, 85 Stat. 36; amend-

ed Apr. 21, 1976, Pub. L. 94-273, §2(2), 90 Stat. 375; Nov. 28, 1990, Pub. L. 101-624, title XXIII, §2363(b)(2), 104 Stat. 4043; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(11), 108 Stat. 3221.)

#### AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103-354 substituted “Secretary” for “Administrator of the Rural Electrification Administration”.

1990—Subsec. (a)(2). Pub. L. 101-624 substituted “section 945(b)(1)(A) of this title” for “section 945(b) of this title”.

1976—Subsec. (a). Pub. L. 94-273 substituted “September” for “June”.

#### EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 943, 944 of this title; title 31 sections 9101, 9108.

### § 950a. Liquidation or dissolution of telephone bank

In the case of liquidation or dissolution of the telephone bank, after the payment or retirement, as the case may be, first, of all liabilities; second, of all class A stock at par; third, of all class B stock at par; fourth, of all class C stock at par; then any surpluses and contingency reserves existing on the effective date of liquidation or dissolution of the telephone bank shall be paid to the holders of class A and class B stock issued and outstanding before the effective date of such liquidation or dissolution, pro rata.

(May 20, 1936, ch. 432, title IV, §411, as added May 7, 1971, Pub. L. 92-12, §2, 85 Stat. 37.)

#### EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

### § 950b. Borrower net worth

Except as provided in subsection (b)(2) of section 948 of this title, notwithstanding any other provision of law, a loan shall not be made under section 922 of this title to any borrower which during the immediately preceding year had a net worth in excess of 20 per centum of its assets unless the Secretary finds that the borrower cannot obtain such a loan from the telephone bank or from other reliable sources at reasonable rates of interest and terms and conditions.

(May 20, 1936, ch. 432, title IV, §412, as added May 7, 1971, Pub. L. 92-12, §2, 85 Stat. 37; amended Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

#### AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator”.

#### EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 939 of this title.

## SUBCHAPTER V—RURAL ECONOMIC DEVELOPMENT

### SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 6944 of this title.

### § 950aa. Additional powers and duties

The Secretary shall—

(1) provide advice and guidance to electric borrowers under this chapter concerning the effective and prudent use by such borrowers of the investment authority under section 940b of this title to promote rural development;

(2) provide technical advice, troubleshooting, and guidance concerning the operation of programs or systems that receive assistance under this chapter;

(3) establish and administer various pilot projects through electric and telephone borrowers that the Secretary determines are useful or necessary, and recommend specific rural development projects for rural areas;

(4) act as an information clearinghouse and conduit to provide information to electric and telephone borrowers under this chapter concerning useful and effective rural development efforts that such borrowers may wish to apply in their areas of operation and concerning State, regional, or local plans for long-term rural economic development;

(5) provide information to electric and telephone borrowers under this chapter concerning the eligibility of such borrowers to apply for financial assistance, loans, or grants from other Federal agencies and non-Federal sources to enable such borrowers to expand their rural development efforts;

(6) promote local partnerships and other coordination between borrowers under this chapter and community organizations, States, counties, or other entities, to improve rural development; and

(7) administer a Rural Business Incubator Fund (as established under section 950aa-1 of this title) that shall provide technical assistance, advice, loans, or capital to business incubator programs or for the creation or operation of small business incubators in rural areas.

(May 20, 1936, ch. 432, title V, §501, as added Nov. 28, 1990, Pub. L. 101-624, title XXIII, §2345, 104 Stat. 4029; amended Dec. 13, 1991, Pub. L. 102-237, title VII, §703(c), 105 Stat. 1881; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(12), (13), 108 Stat. 3221.)

#### AMENDMENTS

1994—Pub. L. 103-354 struck out “of REA Administrator” at end of section catchline and substituted “Secretary” for “Administrator” in introductory provisions and par. (3).

1991—Pars. (6) to (8). Pub. L. 102-237 inserted “and” at end of par. (6), redesignated par. (8) as (7), and struck out former par. (7) which read as follows: “review the advice and recommendations of the Rural Educational Opportunities Board as established under section 601(f); and”.

#### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-237 effective as if included in the provision of the Food, Agriculture, Conservation,



and Trade Act of 1990, Pub. L. 101-624, to which the amendment relates, see section 1101(b)(8) of Pub. L. 102-237, set out as a note under section 1421 of this title.

### **§ 950aa-1. Rural Business Incubator Fund**

#### **(a) Establishment and use**

##### **(1) Establishment**

There is established in the Treasury of the United States a revolving fund to be known as the Rural Business Incubator Fund (in this subchapter referred to as the “Incubator Fund”) to be administered by the Secretary.

##### **(2) Use**

The Incubator Fund shall be used to make grants and reduced interest loans to electric and telephone borrowers under this chapter or to other nonprofit entities that meet the requirements of this section, to promote business incubator programs or for the creation or operation of business incubators in rural areas, and the interest rate on such loans shall not exceed 5 percent.

##### **(3) Business incubator**

Any business incubator that receives assistance under this subchapter shall be a facility in which small businesses can share premises, support staff, computers, software, hardware, telecommunications terminal equipment, machinery, janitorial services, utilities, or other overhead expenses, and where such businesses can receive technical assistance, financial advice, business planning services, or other support. Business incubator programs that provide assistance of the type described in this paragraph shall be eligible for assistance under this subchapter even if such programs do not involve the sharing of premises.

#### **(b) Application for assistance**

##### **(1) Eligibility to submit**

Borrowers under this chapter that operate business incubators or that desire to operate such incubators or business incubator programs, and that meet the requirements established by the Secretary for obtaining grants or reduced interest loans under this section, may submit applications for such grants or loans at such time, in such form, and containing such information as the Secretary shall require. Nonprofit entities that are not borrowers under subchapter III of this chapter shall be considered eligible borrowers for the purpose of this section if such entities are located in a State in which not more than one electric borrower is headquartered in such State.

##### **(2) Requirements**

Applications submitted under paragraph (1) shall, at a minimum—

(A) contain an assurance that any incubator established or operated pursuant to this section will be operated on a not-for-profit basis; and

(B) contain an assurance that the policy of such incubator is to encourage and assist businesses in graduating from the incubator and becoming viable business entities in the community and to inform participating businesses of this policy.

#### **(3) Review**

In reviewing applications for assistance, the Secretary shall consider—

(A) how effectively the incubator project will assist in the formation, growth, or improved efficiency of small businesses that will help diversify and develop the local economy; and

(B) the amount of local support likely to exist for the incubator and the businesses to be assisted by such incubator, taking into account local contributions of business, financial, technical, technological, or managerial expertise, and contributions of equipment or materials, local financial assistance, and other factors as determined appropriate by the Secretary.

#### **(c) Funding of local incubators**

##### **(1) By borrower establishing incubator**

###### **(A) In general**

A borrower that establishes or assists a business incubator under this section shall purchase Capital Term Certificates issued by the Incubator Fund in amounts equal to 10 percent of the amount of the grant, or 5 percent of the amount of the reduced interest loan, provided by the Secretary under this section.

###### **(B) Redemption of certificates**

Each calendar year for the 10-year period beginning on the date that a grant or reduced interest loan is provided under this section, the Secretary shall redeem an amount equal to 10 percent of the Capital Term Certificates purchased by the borrower under subparagraph (A), without any payment of interest.

##### **(2) By the Secretary of the Treasury**

The Secretary of the Treasury shall, subject to the limitations contained in annual appropriations Acts, provide funds for the capitalization of the Incubator Fund, and there are authorized to be appropriated for such capitalization not to exceed \$10,000,000 annually until the total of such capitalization equals \$60,000,000. Such amounts shall remain available until expended by the Incubator Fund for the purposes of this section.

#### **(d) Repayments to Incubator Fund**

All payments made on loans under this section, and all amounts provided under subsection (c) of this section, shall be placed in the Incubator Fund established by subsection (a) of this section and shall be available to carry out the purposes of this section.

#### **(e) Full use**

The Secretary shall undertake all reasonable efforts to make full use, during each fiscal year, of any funds contained in the Incubator Fund established under subsection (a) of this section, consistent with the requirement that the Incubator Fund redeem Capital Term Certificates as provided by subsection (c) of this section. During each fiscal year, 10 percent of the amount contained in the Incubator Fund shall be made available to nonprofit entities described in subsection (b) of this section that are not borrowers

under subchapter III of this chapter, except that if qualified applications from such entities are not received in an amount or at such times sufficient to use such 10 percent amount during any fiscal year, the Secretary shall make the remainder of such amount available to other eligible borrowers during such fiscal year.

(May 20, 1936, ch. 432, title V, § 502, as added Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2345, 104 Stat. 4030; amended Dec. 13, 1991, Pub. L. 102-237, title VII, § 703(d), 105 Stat. 1881; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

#### AMENDMENTS

1994—Subsecs. (a)(1), (b)(1), (3), (c)(1), (e). Pub. L. 103-354 substituted “Secretary” for “Administrator” in subsec. (a)(1) and in two places in subsecs. (b)(1), (3), (c)(1), and (e).

1991—Subsec. (a)(2). Pub. L. 102-237 struck out “as defined in this chapter” after “in rural areas”.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 950aa of this title.

### CHAPTER 31A—DISTANCE LEARNING AND MEDICAL LINK PROGRAMS

Sec.	Purpose.
950aaa.	Goal.
950aaa-1.	Definitions.
950aaa-3.	Provisions relevant to telecommunications programs.
	(a) Administration.
	(b) Rulemaking.
	(c) Priority.
	(d) Waivers.
	(e) Expediting coordinated telephone loans.
	(f) Grant approval process.
	(g) Joint use of telecommunications transmissions facilities.
	(h) Expedited loans for telephone transmission facilities.
950aaa-4.	Rural community access to advanced telecommunications.
	(a) Purpose.
	(b) Grants.
	(c) Regulations.
950aaa-5.	Special health care and distance learning program for qualified service areas.
	(a) Development of consortia.
	(b) Special program for qualified local exchange carrier service areas.
	(c) Expedited telephone loans.
	(d) “Qualified local exchange carrier service area” defined.

#### TERMINATION OF CHAPTER

*For termination of chapter by section 1(b) of Pub. L. 102-551, see note set out under section 950aaa of this title.*

#### § 950aaa. Purpose

The purposes of this chapter are to provide incentives for local telephone exchange carriers, rural community facilities and rural residents to improve the quality of phone service, to provide access to advanced telecommunications services and computer networks, and to improve rural opportunities.

(Pub. L. 101-624, title XXIII, § 2331, Nov. 28, 1990, 104 Stat. 4017.)

#### TERMINATION OF SECTION

*For termination of section by section 1(b) of Pub. L. 102-551, see Termination of Chapter note set out below.*

#### TERMINATION OF CHAPTER

Pub. L. 102-551, § 1(b), Oct. 28, 1992, 106 Stat. 4100, provided that: “Notwithstanding any other provision of law, chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 950aaa et seq.), including the amendments made by this section [enacting section 950aaa-5 of this title and amending section 950aaa-4 of this title], shall be effective until September 30, 1997.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 950aaa-4 of this title.

#### § 950aaa-1. Goal

It is a goal of the Federal Government to make affordable advanced telecommunications available to rural residents, including services such as reliable facsimile document and data transmission, multifrequency tone signaling services, 911 emergency service with automatic number identification, interactive audio and visual transmissions, voicemail services designed to record, store, and retrieve voice messages, and other advanced telecommunications services.

(Pub. L. 101-624, title XXIII, § 2332, Nov. 28, 1990, 104 Stat. 4017; Pub. L. 102-237, title VII, § 702(g), Dec. 13, 1991, 105 Stat. 1880.)

#### TERMINATION OF SECTION

*For termination of section by section 1(b) of Pub. L. 102-551, see Termination of Chapter note set out under section 950aaa of this title.*

#### AMENDMENTS

1991—Pub. L. 102-237 substituted “Federal Government” for “Federal government”.

#### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101-624, to which the amendment relates, see section 1101(b)(7) of Pub. L. 102-237, set out as a note under section 1421 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 950aaa-4 of this title.

#### § 950aaa-2. Definitions

As used in this chapter:

##### (1) Communication satellite ground station complex

The term “communication satellite ground station complex” includes transmitters, receivers, and communications antennas at the Earth station site together with the interconnecting terrestrial transmission facilities (cables, line, or microwave facilities) and modulating and demodulating equipment necessary for processing traffic received from the terrestrial distribution system prior to transmission via satellite and the traffic received